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# TRANSCRIPT OF RECORD

## Supreme Court of the United States

### OCTOBER TERM, 1930

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**No. 470**

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, APPELLANT,

*vs.*

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AND LEON O. WHITSELL, C. L. SEAVEY, ET AL., ETC.

---

**No. 471**

LOS ANGELES & SALT LAKE RAILROAD COMPANY, APPELLANT,

*vs.*

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AND LEON O. WHITSELL, C. L. SEAVEY, ET AL., ETC.

---

**No. 472**

SOUTHERN PACIFIC COMPANY AND SOUTHERN PACIFIC RAILROAD COMPANY, APPELLANTS,

*vs.*

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AND LEON O. WHITSELL, C. L. SEAVEY, ET AL., ETC.

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APPEALS FROM THE SUPREME COURT OF THE STATE OF CALIFORNIA

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FILED SEPTEMBER 22, 1930

(35,892, 35,893, 35,894)

(35,392, 35,393, 35,394)

# SUPREME COURT OF THE UNITED STATES

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[fol. 1]

## IN SUPREME COURT OF CALIFORNIA.

S. F. No. 13056

ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, a Corporation, Petitioner,

v.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA and LEON O. Whitsell, C. L. Seavey, Ezra W. Decoto, Thomas S. Louttit, and W. J. Carr, as Members of and Constituting said Railroad Commission, Respondents

S. F. No. 13057

LOS ANGELES & SALT LAKE RAILROAD COMPANY, a Corporation, Petitioner,

v.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, and LEON O. Whitsell, C. L. Seavey, Ezra W. Decoto, Thomas S. Louttit, and W. J. Carr, as Members of and Constituting said Railroad Commission, Respondents

S. F. No. 13058

SOUTHERN PACIFIC COMPANY (A Corporation) and Southern Pacific Railroad Company (A Corporation), Petitioners,

v.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA and LEON O. Whitsell, C. L. Seavey, Ezra W. Decoto, Thomas S. Louttit, and W. J. Carr, as Members of and Constituting said Railroad Commission, Respondents

[fol. 2] JOINT PRÆCIPE FOR TRANSCRIPT OF RECORD AND ORDER THEREON

To the Clerk of the above-entitled Court:

The parties above named in the above entitled causes join in this Præcipe and Stipulation for the preparation of the

transcript of the consolidated record on appeal in said causes and you are requested to prepare a transcript of record in said causes and transmit same to the Supreme Court of the United States at Washington, D. C., duly certified and authenticated and within the time prescribed by the rules of practice of the Supreme Court of the United States, consisting of the following documents and portions of the record in said causes which said parties stipulate constitute the record on appeal to the Supreme Court of the United States in said causes:

1. This Præcipe and Stipulation.

2. Complaint of Central Development Association of Los Angeles, Case No. 971, against the Southern Pacific Company, Atchison, Topeka & Santa Fe Railway Company and San Pedro and Salt Lake Railroad Company, filed with the Railroad Commission July 6, 1916.

3. Answer of Atchison, Topeka & Santa Fe Railway Company to complaint of Central Development Association of Los Angeles, Case 971, filed with the Railroad Commission July 29, 1916.

4. Answer of Southern Pacific Company to complaint of Central Development Association of Los Angeles, Case 971, filed with the Railroad Commission August 7, 1916.

5. Answer of Los Angeles and Salt Lake Railroad Company to complaint of Central Development Association of Los Angeles, Case 971, filed with the Railroad Commission July 28, 1916.

6. Amendment to complaint of Central Development Association of Los Angeles, Case 971, filed with the Railroad Commission June 28, 1918.

[fol. 3] 7. Answer of Atchison, Topeka & Santa Fe Railway Company to amendment to complaint in Case 971, filed with the Railroad Commission July 5, 1918.

8. Answer of Southern Pacific Company to amend- to complaint in Case 971, filed with the Railroad Commission July 26, 1918.

9. Answer of Los Angeles and Salt Lake Railroad Company to amendment to complaint in Case 971, filed with the Railroad Commission July 17, 1918.

10. Decision of the Railroad Commission, No. 8901, rendered April 26, 1921.

11. Decision of the Railroad Commission of California, No. 9838, rendered December 6, 1921.

12. Decision of the Supreme Court of the State of California, rendered on the 19th day of December 1922, annulling the decisions No. 8901, and No. 9838 of the Railroad Commission of the State of California.

13. Order of the Railroad Commission of the State of California, rendered on the 3rd of October, 1925, reopening Cases Nos. 970, 972, 974, 980, 981, 983 and Application No. 3346, for further consideration and further hearing before the Railroad Commission of the State of California.

14. Petition of Central Development Association of Los Angeles, for reopening of Case 971, filed with the Railroad Commission September 18, 1925.

15. Order of Railroad Commission reopening Case 971 for further proceedings, dated October 3, 1925.

16. Decision of the Railroad Commission of the State of California No. 18593, rendered July 8, 1927.

17. Application of Southern Pacific Company for rehearing on Decision 18593, filed with the Railroad Commission July 16, 1927.

[fol. 4] 18. Application of Los Angeles and Salt Lake Railroad Company for rehearing on Decision 18593, filed with the Railroad Commission July 16, 1927.

19. Application of the Atchison, Topeka & Santa Fe Railway Company for rehearing on Decision 18593, filed with the Railroad Commission on July 21, 1927.

(NOTE.—The foregoing three applications for rehearing (Items 17, 18 and 19) are quoted in full in petitions for writs of review, Items 22, 23 and 24, following, and, therefore, instead of copying said applications the Clerk may certify that said applications are on file and that copies are omitted because said applications are quoted in full in petitions for writs of review which are set out in the certified record.)

20. Decision of the Interstate Commerce Commission in Docket No. 14778 and Finance Docket 3556, decided May 8, 1928, filed with the Railroad Commission May 25, 1928. Filed by California Railroad Commission without prior notice to the carriers of said filing.

21. Order of the Railroad Commission of the State of California No. 19810, denying applications for rehearing, dated May 26, 1928.

22. Petition of Southern Pacific Company and Southern Pacific Railroad Company for a writ of review, filed in the Supreme Court of the State of California on the 19th day of June, 1928 (omitting exhibits).

23. Petition of Atchison, Topeka & Santa Fe Railway Company for a writ of review, filed in the Supreme Court of the State of California on the 19th day of June, 1928, (omitting exhibits).

24. Petition of Los Angeles and Salt Lake Railroad Company for a writ of review, filed in the Supreme Court of the State of California on the 19th day of June, 1928, (omitting exhibits).

25. Writ of review issued out of the Supreme Court of [fol. 5] the State of California upon petition of Southern Pacific Company, et al, dated July 7, 1928.

26. Writ of review issued out of the Supreme Court of the State of California upon petition of Atchison, Topeka & Santa Fe Railway Company, dated July 7, 1928.

27. Writ of review issued out of the Supreme Court of the State of California upon petition of Los Angeles and Salt Lake Railroad Company, dated July 7, 1928.

(NOTE.—Writs of review issued out of the Supreme Court of the State of California upon petition of Atchison, Topeka & Santa Fe Railway Company and upon petition of Los Angeles and Salt Lake Railroad Company, Items 26 and 27, are substantially identical as to form and substance as the writ of review issued upon petition of Southern Pacific Co., et al. Item 25, and may therefore be omitted in printing and reference made thereto by suitable notation.)

28. Return of Railfoad Commission of the State of California to writs of review issued upon petition of Southern Pacific Company and Southern Pacific Railroad Company, No. S. F. 13,058; writ of review issued upon petition of Atchison, Topeka & Santa Fe Railway Company, S. F. 13,056; and writ of review issued upon petition of Los Angeles & Salt Lake Railroad Company, No. S. F. 13057, the said return being filed with the Supreme Court of the State of California August 6, 1928. (Omitting pleadings, transcripts and exhibits and attached Memorandum of Documents filed with the said court.)

29. Minute order of the Supreme Court of the State of California dated August 6, 1928, showing consolidation for hearing and decision of Southern Pacific Company, et al. v. Railroad Commission et al., S. F. No. 13058; The Atchison, Topeka & Santa Fe Railway Co. v. Railroad Commission, S. F. No. 13056; and Los Angeles and Salt Lake Railroad Company v. Railroad Commission, S. F. No. 13057.

30. Decision of Supreme Court of the State of Califor-
[fol. 6] nia, rendered May 27, 1930, affirming the order of the Railroad Commission of the State of California.

31. Joint petition for rehearing filed by Southern Pacific Company, Southern Pacific Railroad Company, The Atchison, Topeka & Santa Fe Railway Company and Los Angeles and Salt Lake Railroad Company in the Supreme Court of the State of California, filed June 16, 1930.

32. Order of the Supreme Court of the State of California, filed on the 26th day of June, 1930, denying the joint petition of Southern Pacific Company, Southern Pacific Railroad Company, The Atchison, Tokepa & Santa Fe Railway Company and Los Angeles and Salt Lake Railroad Company for rehearing.

33. Remittitur issued out of the Supreme Court of the State of California, dated June 27, 1930, in Atchison, Topeka & Santa Fe Railway Company v. Railroad Commission of the State of California, et al., S. F. No. 13056.

34. Remittitur issued out of the Supreme Court of the State of California, dated June 27, 1930, in Los Angeles and Salt Lake Railroad Company v. Railroad Commission of the State of California, et al., S. F. No. 13057.

35. Remittitur issued out of the Supreme Court of the State of California, dated June 27, 1930, in Southern Pacific Company, et al. v. Railroad Commission of the State of California, et al., S. F. No. 13058.

(NOTE.—Remittitur in each of the three foregoing cases specified in Items 33, 34 and 35 are substantially identical and therefore Items 34 and 35 may be omitted in printing and suitable reference made thereto by notation.)

36. Petition for Appeal by Atchison, Topeka & Santa Fe Railway Company, S. F. No. 13056.

37. Petition for Appeal by Los Angeles and Salt Lake Railroad Company, S. F. No. 13057.

[fol. 7] 38. Petition for Appeal by Southern Pacific Company, et al., S. F. No. 13058.

39. Assignment of errors by The Atchison, Topeka & Santa Fe Railway Company, S. F. No. 13056.

40. Assignment of errors by Los Angeles and Salt Lake Railroad Company, S. F. No. 13057.

41. Assignment of errors by Southern Pacific Company, et al., S. F. No. 13058.

(NOTE.—Each of the assignments of errors, Items 39, 40 and 41 is substantially identical, with the exception of paragraph XX thereof, and assignments of errors 40 and 41 may be omitted in printing, with exception of paragraph XX thereof, which should be included and printed in the record.)

42. Order allowing appeal by The Atchison, Topeka & Santa Fe Railway Company, S. F. No. 13056.

43. Order allowing appeal by Los Angeles and Salt Lake Railroad Company, S. F. No. 13057.

44. Order allowing appeal by Southern Pacific Company, et al. S. F. No. 13058.

45. Citation, with proof of service and all endorsements thereon, by The Atchison, Topeka & Santa Fe Railway Company, S. F. No. 13056.

46. Citation, with proof of service and all endorsements thereon, by Los Angeles and Salt Lake Railroad Company, S. F. No. 13057.

47. Citation, with proof of service and all endorsements thereon, by Southern Pacific Company, et al., S. F. No. 13058.

(NOTE.—Petitions for appeal specified in Items 36, 37, 38; Orders allowing appeal specified in Items 42, 43 and 44; Citations, etc., specified in Items 45, 46 and 47, are respectively substantially identical and therefore Items 37 and 38; 43 and 44; 46 and 47, may be omitted in printing and suitable reference made thereto by notation.)

48. Supersedeas Bond on Appeal, by The Atchison, [fol. 8] Topeka & Santa Fe Railway Company, S. F. No. 13056.

49. Supersedeas Bond on Appeal, by Los Angeles and Salt Lake Railroad Company, S. F. No. 13057.

50. Supersedeas Bond on Appeal, by Southern Pacific Company et al., S. F. No. 13058.

(NOTE.—Supersedeas Bonds on Appeal—Items 48, 49, 50—may be omitted in printing by making suitable reference thereto.)

51. Agreed Condensed Statement of Evidence and Stipulation.

52. Stipulation and Order of August 18, 1930, extending time to docket cause and file record on appeal.

53. The Certificate of the Clerk of the Supreme Court of the State of California.

54. Certify separately and forward to the Clerk of the United States Supreme Court the following "Original Exhibits":

(a) California Railroad Commission Exhibit No. 1, entitled "Railroad Commission Grade Crossing and Terminal Investigation Los Angeles", filed February 17, 1920.

(b) City of Los Angeles Exhibit 5, being a certified copy of decision of the Interstate Commerce Commission in

Docket No. 14778 and Finance Docket 3556 and 3569 decided July 6, 1925.

(c) California Railroad Commission Exhibit No. 49, filed March 4, 1926.

(d) City of Los Angeles Exhibit No. 13 entitled: "Major Traffic Street Plan, Los Angeles, California", filed with the Railroad Commission May 21, 1926.

(e) City of Los Angeles Exhibit No. 14, entitled: "Existing Major Thoroughfares Serving Administrative Center Site", filed with the Railroad Commission May 21, 1926.

(f) City of Los Angeles Exhibit No. 15, entitled: "Administrative Center District and Adjoining Areas", filed with the Railroad Commission May 21, 1926.

[fol. 9] (g) City of Los Angeles Exhibit No. 16, entitled: "Metropolitan Mosaic Greater Los Angeles", filed with the Railroad Commission May 21, 1926.

(h) Carrier's Exhibit No. 36 entitled: "Proposed train movement in and out of station, joint passenger terminal Los Angeles & Salt Lake Railroad and Southern Pacific, March 1926", filed with the Railroad Commission May 26, 1926.

(i) Carrier's Exhibit 80 entitled: "Los Angeles Union Passenger Terminal proposed by the California Railroad Commission in the City of Los Angeles", filed with the Railroad Commission August 4, 1926.

(j) Carriers' Exhibit 88, entitled: "Estimate Los Angeles and Salt Lake Railway Company and Southern Pacific Company Joint Passenger Terminal Facilities", filed with the Railroad Commission August 5, 1926.

Dated September 12, 1930.

Robert Brennan, E. W. Camp, A. S. Halsted, Frank Karr, C. W. Durbrow, Attorneys for Petitioners and Appellants. Arthur T. George, Ira H. Rowell, Roderick B. Cassidy, Attorneys for Respondents and Appellees.

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[fol. 10] ORDER

It being the opinion of the Chief Justice of the Supreme Court of the State of California that it is necessary and

proper that the original maps and blue prints and certain exhibits specified in the foregoing Joint Præcipe for transcript of record be inspected in the Supreme Court of the United States on appeal, it is therefore hereby ordered that the clerk deliver such original maps and blue prints and exhibits to said Supreme Court of the United States for filing with the record in this case in connection with the transcript of proceedings therein and that after such inspection by the Supreme Court of the United States said original maps, blue prints and exhibits be returned to the Clerk of the Supreme Court of the State of California.

Dated September 12, 1930.

William H. Waste, Chief Justice of the Supreme Court of the State of California.

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[fol. 11] Filed at Los Angeles Office 7/3/16

[File endorsement omitted]

BEFORE RAILROAD COMMISSION OF CALIFORNIA

Case No. 971

THE CENTRAL DEVELOPMENT ASSOCIATION OF LOS ANGELES, a Voluntary Organization of the Citizens of the City of Los Angeles, State of California, Complainant,

vs.

THE SOUTHERN PACIFIC COMPANY, ATCHISCO, TOPEKA AND Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, Defendants

COMPLAINT—Filed July 6, 1916

The Complainant respectfully shows:

I

That the Central Development Association of Los Angeles is a voluntary organization having a membership of citizens of the City of Los Angeles, who have organized themselves for the purpose of considering matters of public importance to the city of Los Angeles and its inhabitants and of securing necessary and appropriate action upon such matters.

II

That the citizens and residents of the city of Los Angeles and of territory surrounding it and tributary to it are profoundly affected by the existence within the limits of the said city of many crossings at grade of the streets of said city by lines of steam and electric railways and the use of many of the streets of said city by such lines of railway as will more fully appear hereafter. That in order to investigate and arrive at an intelligent understanding of the matters set forth in this complaint the Complainant, through engineers and experts of recognized ability, has prosecuted a careful investigation of crossings at grade and the use of the streets of the city of Los Angeles by the railroad lines of the defendants above named, and that the results of the investigation so conducted by the complainant, stated in general terms, are as follows:

[fol. 12] The city of Los Angeles is a community having within its boundaries a population of about 600,000 and it is surrounded by numerous smaller towns and cities having populations of from a few hundred to forty or fifty thousand each, and also annually entertains many hundreds of thousands of visitors and tourists.

That the city of Los Angeles is crossed from North to South by the trunk lines of three transcontinental railroads—the defendands above named; that these three defendants maintain within the City of Los Angeles three separate, main passenger stations and three separate principal freight stations and other subsidiary passenger and freight stations, and separate yards consisting of great area of tracks where freight and passenger trains are made up.

That the Pacific Electric Railway Company maintains at two different points within the business district of the city of Los Angeles separate passenger stations for the use and service of its interurban trains and these interurban trains, to the number of more than two thousand each day, enter and leave the city of Los Angeles over various routes, crossing certain of the steam railroad lines of the above named defendants.

That the entrance and crossing of the city by the lines and tracks operated by defendants have resulted in the crossing of the streets of the city of Los Angeles by their

lines at grade in a very great number of different places, and that several streets of said city, and notably Alameda Street, a main artery, and Alhambra Avenue, an important street, are occupied longitudely by the lines of one of the defendants.

That many of the grade crossings herein referred to are upon streets that are main arteries of traffic to and from the business center of the city of Los Angeles, and its suburbs and along which many thousands of vehicles and great numbers of pedestrians pass each twenty-four hours. [fol. 13] That the crossing of the streets of the city at grade by the tracks of the above named defendants has in the past been productive of many accidents which have been destructive of the lives and property of the people of the city of Los Angeles and of visitors to said city.

That an important and populous part of the Eastern area of said city, known as Boyle Heights, and East Los Angeles, are separated from the remainder of the city by the main tracks of the above named defendants and the intercommunication between this area to the business portion of the city is made difficult and dangerous by reason of the crossings at grade of the main arteries of the city by the main lines of the steam railroad companies above named to the great danger and detriment of the people intercommunicating between these sections of the city and the business center of the city, and to the injury and damage to a greater or less extent of all the property situated in those portions of the city so separated from its business center or traversed by the tracks complained of.

That a number of important and populous towns and cities including the city of Pasadena, with more than forty thousand inhabitants, and whose inhabitants, and whose tourists and visitors, largely find their center of trade in the city of Los Angeles, are so situated that all persons traveling from them to the business center of the city of Los Angeles are compelled to cross one of more of the main tracks of the defendants at grade, to the great danger of personal injury.

III

Your complainant would further represent that the area of the city of Los Angeles is crossed from the North to

the South, near its business center, by the Los Angeles River, the bed of which is of an average width of three hundred feet. That in order to afford communication between the portion of the city on each side of the river, it [fol. 14] is necessary to maintain across the same bridges, and viaducts; that several of these structures are of necessity in such form as to make their use difficult and dangerous on account of the excessive grades of the approaches to them, and that a number of them are in such condition of disrepair that the city will shortly find it necessary to replace them with more adequate structures, and that in order that such replacement and rebuilding shall be done properly there should be a readjustment of the tracks of some of the defendants running along and near the said Los Angeles River, and which are crossed by said bridges and viaducts, or the approaches thereto.

That in order to relieve the people of the city from the danger, damage and inconvenience of the existence of the numerous grade crossings and other conditions complained of, it will be necessary to concentrate the various tracks of the defendants above named and also to provide for the use by the lines of said defendants entering and leaving the city with passengers and freight of a rearrangement of the passenger stations, and of the freight stations or depots.

That the injury and menace to life and property is constantly increasing with the growth of the city and the business of said defendants; and that thereby the barrier between the center of the city and the districts to the North and East is constantly becoming more intolerable.

Now, therefore, Complainant prays your Commission to take official action,

To investigate the entire situation.

To hear all parties and examine all designs.

To order relief by reclaiming Alameda Street and other streets, by the improvement and abolition of grade crossings, and by reorganization of the trackage situation so that, as far as possible, the operation of the lines of the defendants along or across the streets of the city of Los Angeles may be eliminated, to the extent that the present [fol. 15] and future switching facilities required by the commercial and industrial sections will not be impaired, taking such further, other or additional action as may be

necessary or expedient to improve the present condition herein complained of.

Dated Los Angeles, Cal., July 3, 1916.

(Signed) F. W. Blanchard, President the Central Development Association of Los Angeles.

*Duly sworn to by F. W. Blanchard. Jurat omitted in printing.*

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[fol. 16] [File endorsement omitted]

BEFORE RAILROAD COMMISSION OF CALIFORNIA

[Title omitted]

Case No. 971

ANSWER OF A. T. & S. F. RY. CO.—FILED JULY 29, 1916

Now comes the Atchison Topeka and Santa Fe Railway Company one of the defendants named in above entitled proceeding, appearing for itself only, and for its separate answer and defense to the complaint filed in said proceeding respectfully shows.

I

Answering third paragraph of said Complaint this defendant shows that it has no information nor belief sufficient to enable it to answer that portion of said paragraph charging and alleging that certain bridges and viaducts in said city of Los Angeles are in such condition of disrepair that city will shortly find it necessary to replace them with more adequate structures, and on that ground denies said allegation and all thereof.

II

And it denies that portion of said paragraph three which alleges that in order to relieve people of the city from danger, damage and convenience of the existence of the numerous grade crossings, it will be necessary to concentrate the various tracks of the defendants above named, and also to provide for the use by the lines of said defendants entering

and leaving the city with passengers and freight of a re-arrangement of the passenger stations and of the freight [fol. 17] stations or depots and it denies all of said allegations.

III

And for a further and separate answer and defense to said complaint this defendant shows that there is a defect of parties defendant; that is to say, Pacific Electric Railroad Co. the Los Angeles Railway Co., the City of Los Angeles, and County of Los Angeles, ought to be made parties defendant to said proceeding because it appears upon the face of said complaint that said Pacific Electric and Los Angeles Railway Companies are interested and will be directly affected by any change in the re-arrangement of tracks in the said city of Los Angeles; that said City of Los Angeles is interested and directly affected by any re-arrangement of said tracks especially so far as tracks on streets and across streets are concerned in said city; that said city is interested in so far as said proceeding may involve a change in any bridges in said city, and furthermore, that said city and County of Los Angeles ought reasonably to be required to bear a portion of the expense of making any of the changes proposed by said complaint.

IV

And for a further answer and defense in said proceedings, said defendant shows that the Honorable Commission has no jurisdiction to require this defendant to unite with other defendants in a joint passenger station or to unite with other defendants in a joint freight depot or depots, or to require a separation of grades at street crossings in said city.

Dated July 25, 1916.

E. W. Camp, U. T. Clotfelter, Attys. for Def.

[fol. 18] *Duly sworn to by W. H. Brewer. Jurat omitted in printing.*

[fol. 19] [File endorsement omitted]

BEFORE RAILROAD COMMISSION OF CALIFORNIA

No. 971

[Title omitted]

ANSWER OF SOUTHERN PACIFIC COMPANY—Filed Aug. 7, 1919

Defendant, Southern Pacific Company, for answer herein:

Upon the ground that it has not sufficient knowledge, information, or belief upon the subject to enable it to answer, defendant denies the allegations contained in paragraph I of complainant's complaint, and prays that complainant may be put to its proof thereof.

Upon the same ground, defendant denies the allegations contained in paragraph II of complainant's complaint, with the exception that defendants do, as alleged by complainant, maintain within the City of Los Angeles separate main passenger stations and separate principal freight stations, and separate yards where passenger and freight trains are made up; and that the Pacific Electric Railway Company operates interurban trains which cross certain of the steam railroad lines of defendants in said City at grade, the number of [fol. 20] which is unknown to defendant; and that this defendant operates on certain streets in said city longitudinally; that some of said grade crossings are upon streets which are traversed by vehicles, loaded trucks and pedestrians, the exact amount of such traffic being unknown to defendant; but defendant denies that the crossings of the streets of said City at grade by defendant's tracks have been in the past productive of many accidents which have been destructive of the lives or property of the people of the city of Los Angeles, or of visitors to said city; or that the intercommunication between the area known as Boyle Heights and East Los Angeles and the business portion of the City is at all made difficult or dangerous by reason of any of said crossings at grade, or to the great danger or any detriment of the people inter-communicating between said sections, or to any injury or damage to any property situated in said city, or otherwise or at all; or that the persons traveling from said sections to the business portion of Los Angeles are at all compelled to cross one or more tracks of defend-

ant at grade, to their great or any danger of personal injury.

Defendant denies that it maintains any viaducts or bridges across the Los Angeles River, or at any other point, or at all, in such form as to make their use difficult or dangerous, on account of the excessive grade of the approaches to them, or otherwise or at all; or that a number or any of them are in such condition of disrepair that the city will shortly find it necessary to replace them with more adequate structures; or that any such replacement or rebuilding would necessitate a readjustment of the tracks of this defendant running along or near the said Los Angeles River which are crossed by said bridges or viaducts, or the approaches thereto, or otherwise or at all.

[fol. 21] Defendant denies that in order to relieve the people of the City of Los Angeles from any danger, damage or inconvenience by the existence of any grade crossing or crossings, or any other conditions complained of, it will be at all necessary to concentrate any tracks of defendant, or to provide for the use by the lines of any of said defendants of a re-arrangement of any of the passenger stations, or of the freight stations or depots of said defendants.

Defendant denies that there is any injury or menace to life or property by reason of anything alleged in complainant's complaint, or otherwise or at all; or that by reason of anything alleged in complainant's complaint, or otherwise or at all, there is any barrier between the center of the said city and the districts to the north and east; or that by reason of anything alleged in complainant's complaint, or otherwise or at all, there is any intolorable condition existing.

For a further and separate defense, defendant alleges that the Railroad Commission of the State of California has no jurisdiction of the above-entitled matter, and has no jurisdiction of the subject matter thereof; and further, that the said Commission has no jurisdiction to enter any order prayed for by complainant herein.

Wherefore defendant prays that said complaint may be dismissed.

C. W. Durbrow, Attorney for Defendant Southern Pacific Company.

[fol. 22] *Duly sworn to by W. R. Scott. Jurat omitted in printing.*

[fol. 23] [File endorsement omitted]

BEFORE RAILROAD COMMISSION OF CALIFORNIA

[Title omitted]

SEPARATE ANSWER OF SAN PEDRO, LOS ANGELES & SALT LAKE RAILROAD COMPANY—Filed July 28, 1916

Comes now defendant, San Pedro, Los Angeles & Salt Lake Railroad Company, and without waiving, but expressly reserving, all objections and exceptions heretofore taken in this proceeding, files this its separate answer herein, as follows:

I

By way of special and separate defenses to the said proceeding and to the complaint, defendant says:

(a) That said Commission has no jurisdiction of the subject matter set forth in the complaint;

(b) That the Commission has no jurisdiction or power to order the construction of viaducts or the abolition of grade crossings within the City of Los Angeles;

(c) That the said Commission has no jurisdiction or power to order the removal of the freight station or business of this defendant in the City of Los Angeles from its present location to any other point;

(d) That said Commission has no jurisdiction or power to order the removal of the passenger station and business of this defendant in the City of Los Angeles from its present location to any other point;

(e) That the Commission has no jurisdiction or power [fol. 24] to reorganize the trackage of this defendant;

(f) That the said Commission has no jurisdiction or authority to order this defendant to join with the other defendants in the acquisition, construction or maintenance of a union passenger terminal within the City of Los Angeles;

(g) That the said Commission has no jurisdiction or authority to order this defendant to join with the other de-

fendants in the acquisition, construction or maintenance of a union freight terminal within the City of Los Angeles;

(h) That the Commission has no power or authority to grant the relief or any of the relief prayed for in the third paragraph of the prayer of said complaint;

(i) That said Complaint does not state facts sufficient to entitle the complainant to the relief, or any of the relief, prayed for;

(j) That the City of Los Angeles, a municipal corporation, the County of Los Angeles, and the Pacific Electric Railway Company, a corporation, are necessary parties to said proceeding and should be joined as parties defendant therein.

II

And this defendant, without waiving any of the separate and special defenses hereinbefore set forth, and as a further and separate answer herein, says:

Referring to the allegations of paragraph II of the complaint, to the effect that complainant has prosecuted a careful investigation of crossings at grade, and the use of the streets of the City of Los Angeles by the railroad lines of defendants above named, this defendant has no knowledge, information or belief sufficient to enable it to answer the same, and basing its denial on that ground denies the said allegations; and on the said ground denies that the results of such investigation, as set forth in said paragraph II, are true or correct.

[fol. 25]

III

Referring to the allegations of paragraph III, this defendant denies that any of the bridges or viaducts across the railroad tracks of this defendant are of necessity in such form as to make their use difficult and dangerous, or difficult or dangerous, on account of the excessive grades of the approaches to them, or otherwise, or at all; and, denies that in the replacement or rebuilding of any such bridges there should be a re-adjustment of the tracks of this defendant crossed by said bridges and viaducts and the approaches thereto.

IV

Denies, that in order to relieve the people of the City from danger, damage or inconvenience of the existence of

the numerous grade crossings and other conditions set forth in the complaint, or for any other reason, it will be necessary to concentrate the various tracks of the defendants, or to provide for the use by the lines of said defendants entering and leaving the City with passengers or freight of a central or union passenger depot, or of one or more central freight stations or depots; and, denies that it would be to the interests of said City, or of the passengers and patrons of this defendant, and of the other defendants, to establish, maintain or construct a union passenger station or one or more central freight stations or depots within said City; and this defendant denies that the tracks of this defendant constitute a barrier between the center of the City and the districts to the North and East thereof.

Wherefore this defendant prays that said complaint be dismissed.

San Pedro, Los Angeles & Salt Lake Railroad Company, by H. C. Nutt, Its General Manager. A. S. Halsted, Its General Counsel.

[fol. 26] *Duly sworn to by H. C. Nutt. Jurat omitted in printing.*

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[fol. 27] [File endorsement omitted]

BEFORE RAILROAD COMMISSION OF CALIFORNIA

No. 971

[Title omitted]

AMENDMENT TO COMPLAINT—Filed June 28, 1918

The Central Development Association asks leave to amend its complaint by adding thereto the folowing allegations:

"That the three steam railroad companies, defendants, maintain three separate main passenger stations and subordinate stations in the City of Los Angeles which are not intercommunicating nor situated on main thoroughfares, but are maintained as separate and distinct centers each

with its complement equipment of main tracks, side tracks and spur tracks;

That likewise the said three companies, defendants, maintain three separate centers of freight collection and delivery in said City with subordinate centers with equipments of main tracks, side tracks and spurs, necessitating the maintenance of separate systems of industrial tracks for the collection and delivery of freight;

That said passenger stations and each of them are inconveniently situated, with insufficient facilities for the convenience of welfare of the general public; that they are located apart from centers of communication and are difficult of access on main lines of street and electric railway communication from the various sections of the City of Los Angeles and the people desiring to use said stations;

[fol. 28] That the crossing of the streets of Los Angeles by railroad tracks and of railroad tracks by streets are an integral and essential part of a comprehensive union terminal plan, and the building of said union terminal is a public necessity required for the convenience of the residents and users of the said railroads of the defendant companies;

And further, this complainant alleges that to carry out a comprehensive and efficient plan for the elimination of crossings at grade of defendant companies, it is necessary that a union terminal feasible of operation by the defendant companies be established, and that train layout thereby occasioned may be made without dangerous crossings and obstructions of traffic; that by the present locations of tracks and stations of the defendant companies an excessive and unnecessary use of the streets of the City is caused, resulting in great inconvenience to the people of the City and of the visitors of the City in the use of the streets and in grave risks of the lives and property of such citizens and visitors, and in large damage to the property located on and near said tracks and in danger to the railroad cars and passengers thereon."

And the complainant further asks leave to amend its prayer by adding the following additional ground:

"To order the installation of union passenger and freight terminals by the defendant companies at such points as by the Commission shall be deemed wise and proper for the

accommodation of the traffic in, to and out of the City and for the use of said defendant companies and such other railroad companies as may be under the order of the Commission entitled to use the same upon such terms as shall be just."

Central Development Association, by Seward A. Simon, Attorney.

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[fol. 29] [File endorsement omitted].

BEFORE RAILROAD COMMISSION OF CALIFORNIA

Case No. 971

[Title omitted]

ANSWER TO AMENDMENT—Filed July 5, 1918

Comes now The Atchison, Topeka and Santa Fe Railway Company and appearing for itself only, for its separate answer and defense to the amendment made by leave of the Commission to the complaint in the above entitled matter, respectfully shows:

It admits that the three steam railroad companies defendants maintain three separate main passenger stations as subordinate stations in the City of Los Angeles which are not intercommunicate but are maintained as separate and distinct centers, each with its separate equipment of main track, side track and spur track, but denies the allegations that the passenger station of this defendant is not situated on a main thoroughfare.

It admits that the said three companies defendants maintain three separate centers of freight collection and delivery in said city with subordinate centers, with equipment of main tracks, side tracks and spurs, but denies that by reason of such facts, or any other facts, there is necessitated the maintenance of separate stations of industrial tracks for the collection and delivery of freight.

[fol. 30] It denies that this defendant's passenger station is inconveniently situated and denies that such station affords insufficient facilities for the convenience or welfare

of the general public and denies that such station is located apart from centers of communication or in difficult access on main lines of street or electric railway or communication from the various sections of the City of Los Angeles and the people desiring to use said station.

It denies that the building of a union terminal is a public necessity required for the convenience of the users of said railway, or any thereof.

It denies that by reason of any facts set forth in said amended complaint, or otherwise, it is necessary that a union terminal feasible of operation by the defendant companies be established or that train lay-outs thereby occasioned may be made without dangerous crossings or obstructions of track, and denies that by reason of the present location of tracks and stations of this defendant an excessive or unnecessary use of the streets of the city is caused, resulting in great inconvenience to the people of the City, or to the visitors of the city of the use of the streets or in great risks to the lives of the residents or the visitors of the city, or of large property on or near such tracks, or in danger to the railroad cars and passengers thereon.

Dated July 3rd, 1918.

E. W. Camp, Robt.. Brennan, Attorneys for the Atchison, Topeka and Santa Fe Railway Company.

[fol. 31] *Duly sworn to by W. H. Brewer. Jurat omitted in printing.*

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[fol. 32] [File endorsement omitted]

BEFORE RAILROAD COMMISSION OF CALIFORNIA

No. 971

[Title omitted]

ANSWER OF DEFENDANT SOUTHERN PACIFIC COMPANY TO AMENDMENT—Filed July 26, 1917

Defendant Southern Pacific Company, for answer herein, denies that the passenger station maintained by it in the City of Los Angeles, State of California, is inconveniently situated, with insufficient facilities for the convenience or

welfare of the general public, or that it is located apart from centers of communication, or is at all difficult of access on main lines of street or electric railway communication from any section of the City of Los Angeles, or of the people desiring to use said station.

Denies that the building of a union terminal in the City of Los Angeles is a public necessity required for the convenience of the residents or users of defendants' railroads.

Denies that to carry out a comprehensive or efficient plan for the elimination of crossings at grades of defendant's [fol. 33] railroad it is at all necessary that a union terminal be established, and denies that in the present location of tracks and stations of defendant there is an excessive or unnecessary use of the streets of the City of Los Angeles, or that by reason thereof there is any great or other inconvenience to the people of the city, or the visitors to the city, in the use of said streets, or any grave risks to the lives or property of any such citizens or visitors, or large or any damage to the property located on or near said tracks, or danger to the railroad cars or passengers thereon.

Wherefore defendant prays that complainants' amendment to their petition, and the petition upon which said amendment is predicated, be dismissed.

C. W. Durbrow, Attorney for Defendant Southern Pacific Company.

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[fol. 34] [File endorsement omitted]

BEFORE RAILROAD COMMISSION OF CALIFORNIA

Case No. 971

[Title omitted]

ANSWER TO AMENDMENT—Filed July 17, 1918

Comes now defendant Los Angeles & Salt Lake Railroad Company, (formerly San Pedro, Los Angeles & Salt Lake Railroad Company), and answering the amendment to the complaint of the Central Development Association of Los Angeles, says:

Denies that the three passenger stations of the defendants in Los Angeles are not inter-communicating or situated on main thoroughfares.

Denies that said passenger stations are, or that each of them is, inconveniently situated; and denies that the pro-

posed joint passenger station of the defendants, Southern Pacific Company and Los Angeles & Salt Lake Railroad Company, would afford insufficient facilities for the convenience or welfare of the general public; denies that the said passenger stations are, or that each of them is, located apart from centers of communication, or are difficult of access on main lines of street and electric railway communication from the various sections of the City of Los Angeles and the people desiring to use said stations.

Denies that the building of a union terminal is a public necessity required for the convenience of the residents or users of the City railroads of the defendant companies.

Denies that to carry out a comprehensive or efficient [fol. 35] plan for the elimination of crossings at grade of defendant companies, it is necessary that a union terminal be established in order that train layout may be made without dangerous crossings or obstructions of traffic.

Denies that by the present locations of tracks and stations of the defendant companies an excessive or unnecessary use of the streets of the city is caused resulting in great or unnecessary inconvenience to the people of the City or of the passengers of the City in the use of the streets, or in grave risks to the lives or property of such citizens or visitors, or in large, or any, damage to the property located on or near said tracks, or in danger to the railroad cars or passengers thereon.

And defendant renews the prayer of its original answer herein and asks that said complaint and all amendments thereof be dismissed.

Los Angeles & Salt Lake Railroad Company, by A. S. Halsted, Its General Counsel.

July 16, 1918.

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[fol. 36] BEFORE RAILROAD COMMISSION OF CALIFORNIA

Case No. 970

THE MUNICIPAL LEAGUE

vs.

SOUTHERN PACIFIC COMPANY, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, and SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY

Case No. 971

CENTRAL DEVELOPMENT ASSOCIATION OF LOS ANGELES

vs.

SOUTHERN PACIFIC COMPANY, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, and SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY.

Case No. 972

CIVIC CENTER ASSOCIATION OF LOS ANGELES

vs.

SOUTHERN PACIFIC COMPANY, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, and SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY

Case No. 974

CITY OF PASADENA

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, and CITY OF LOS ANGELES

Case No. 980

CITY OF ALHAMBRA

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, and CITY OF LOS ANGELES

Case No. 981

CITY OF SAN GABRIEL

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, and CITY OF LOS ANGELES

[fol. 37] Case No. 983

CITY OF SOUTH PASADENA

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, and CITY OF LOS ANGELES

Application No. 3346. Decided April 26, 1921

In the Matter of the Application of SOUTHERN PACIFIC RAILROAD COMPANY, SOUTHERN PACIFIC COMPANY, and LOS ANGELES AND SALT LAKE RAILROAD COMPANY for Approval of Agreement for Joint Terminal Facilities in Los Angeles, California

Gibbon and Shelton for Municipal League of the City of Los Angeles, Central Development Association of Los Angeles, and Civic Center Association of Los Angeles.

Marshall Stimson for Central Development Association of Los Angeles, and Municipal League of Los Angeles.

Seward A. Simons for Central Development Association of Los Angeles.

Joseph Scott and Edward D. Lyman for Los Angeles Chamber of Commerce.

John Munger and J. H. Howard for City of Pasadena.

Albert Lee Stephens, Howard A. Robertson, Chas. S. Burnell, Jess E. Stephens and H. Z. Osborne, Jr., for City of Los Angeles.

T. D. McFadden for City of San Gabriel.

William Hazlett, City Attorney, for City of South Pasadena.

A. S. Halsted for Los Angeles and Salt Lake Railroad Company.

[fol. 38] C. W. Durbrow and George D. Squires for Southern Pacific Company.

E. W. Camp and U. T. Clofelter for The Atchison, Topeka and Santa Fe Railway Company.

Frank Karr and E. E. Morris for Pacific Electric Railway.

R. A. Rowan for Los Angeles Realty Board.

Fred P. Gregson for Associated Jobbers of Los Angeles.

F. L. Hilton and C. M. Lorraine for City of Alhambra.

Gibson, Dunn and Crutcher for Los Angeles Railway.

W. H. Workman, Jr., for Los Angeles City and County Viaducts Association.

Will D. Gould, President, for Northwest Improvement Association.

Charles W. Lyon for City of Santa Monica and City of Venice.

Herbert J. Goudge for Business Men's Association of Los Angeles.

W. C. Shelton for Business Men's Co-operative Association.

R. W. Kelly for Brooklyn Avenue and Malabar Improvement Association.

Leonard B. Slosson for Municipal League of the City of Los Angeles.

George A. Damon for City Planning Association.

Gordon G. Dunlop, Chairman of Los Angeles Conference of City Planning.

J. G. Wingert for City of Whittier.

B. E. Page for Business Men's Stability Association.

DECISION No. 8901

Opinion

By the COMMISSION:

These seven cases and the applications, with the consent of the parties, were consolidated into one proceeding. [fol. 39] In the seven cases the various complainants have asked the Commission to make a comprehensive investigation into the entire railroad situation in the city of Los Angeles, to the end that there be brought about elimination of grade crossings, the consolidation and unification of the tracks of the various railroads, the establishment of a union passenger station, and better freight facilities, and the Commission is asked to make its orders for the execution of definite plans upon the completion of such investigation.

Application No. 3346 is a joint application by the Southern Pacific Company (hereinafter referred to as the Southern Pacific) and the Los Angeles and Salt Lake Railroad Company (hereinafter referred to as the Salt Lake) ask-

ing the Commission's approval of an agreement between the two companies providing for the joint use of the Los Angeles terminal facilities of the two roads, and also for the possible joint use of certain facilities by the Pacific Electric Railway (hereinafter referred to as the Pacific Electric) and for the construction and use by that company of certain new and additional facilities. The Los Angeles and Salt Lake Railroad Company is the same company referred to in some of these proceedings as the San Pedro, Los Angeles and Salt Lake Railroad Company.

### 1. Review of Proceedings

A brief history of these cases is necessary to an understanding of this proceeding. In July, 1915, several civic organizations of Los Angeles filed complaints against the Southern Pacific, the Salt Lake, The Atchison, Topeka and Santa Fe Railroad Company (hereinafter referred to as the Santa Fe), and the Pacific Electric, asking relief of the grade crossing evil and betterment of transportation facilities. These complaints were joined by a number of other civic and commercial organizations and by several municipalities in the neighborhood of Los Angeles until, in [fol. 40] August, 1916, there were before the Commission the seven complaints consolidated in this proceeding and a considerable number of informal complaints. In July, 1916, upon the request of the city council of Los Angeles, the Commission, in an informal conference with the city council, discussed the grade crossing, freight and passenger terminal conditions in Los Angeles and, at the conclusion of the conference, the city council voted to contribute twenty thousand ($20,000) dollars toward the expense of a complete and thorough investigation to be made by the engineering department of the Commission.

#### (a) The Question of Jurisdiction

The question of the Commission's jurisdiction was raised by the railroads and by the city of Los Angeles (hereinafter referred to as the city). In a hearing on this question of jurisdiction on September 15, 1916, all of the parties, except the city, urged that the Commission had specific jurisdiction over the issues presented. The city took the position that jurisdiction over all railroad grade cross-

ings in Los Angeles was in the city and not in the Commission.

In October, 1916, the Commission rendered Decision No. 3805 dismissing all proceedings. This action was taken for the reason that, while in the Commission's opinion the jurisdiction in the matters involved, under the terms of the Public Utilities Act, rested with the Commission, nevertheless the investigation asked for required the expenditure of so considerable an amount of public money and was of such great importance to the communities and the carriers involved that, in the Commission's opinion, no action should be taken until it was definitely established where jurisdiction rested in the premises. All of the parties were in agreement with the position taken by the Commission.

The matter was taken to the Supreme Court of the state of California by two writs of mandamus. The Supreme [fol. 41] Court made its decision in both mandamus proceedings on June 11, 1917, upholding the position of the complainants and the Commission, and decided that the Commission had exclusive jurisdiction over the construction and operation of railroads on streets in the city of Los Angeles (Civic Center Association vs. Railroad Commission, 175 Cal. 441). The court said:

"The effect upon the present case may be stated as follows:

"The city of Los Angeles has the power to open, widen, extend and improve streets and to regulate the ordinary uses thereof. The Railroad Commission, under section 43 of the Public Utilities Act, has the power to make orders, which are binding upon the railroad companies under its supervision, to abolish grade crossings of the public streets of a city and to order a separation of grades so that the railroad and street shall not be upon the same level and generally to exercise the powers specified in that section. It cannot vacate the street or direct a cessation of the public use thereof. Its orders are to be directed to the railroad company and not to the city, except so far as may be necessary to apportion the expense of construction and maintenance of the particular mode of crossing which shall be required. The city has the power to alter the construction of its streets at such crossings, or any of them, by elevating them upon a viaduct so as to pass over the railroad or by making a subway passing under the railroad. In either

case, if the change in the street does not interfere with the operation and use of the railroad at the time, the Commission cannot prevent the change and it may be made without the consent of the Commission. But if it does interfere, either at the time or afterward, whether by natural causes or lack of repair of the street as changed or by reason of changes in the construction or use of the railroad subsequently directed or approved by the Commission, the city [fol. 42] must conform to the orders of the Commission so as to avoid such interference.

"It is ordered that the Railroad Commission proceed to consider and determine, upon the merits, the complaints made to it by the plaintiffs herein, and that a writ of mandate be issued to it in accordance herewith."

The city thereupon filed a petition for rehearing. This petition was dismissed by the Supreme Court and the matter of jurisdiction is considered as settled by the Commission.

(b) Engineering Investigation

Immediately after the order of the Supreme Court dismissing the city's petition for rehearing, the Commission in public hearing made arrangements for the necessary engineering investigation. The Commission stated (Transcript page 128):

"As is usual in formal complaints, the complainants will be permitted to introduce their evidence and then the defendants will present their testimony.

"The Railroad Commission proposes to conduct a thorough, comprehensive, and impartial investigation into the entire situation. The Commission will instruct its engineering department to make an exhaustive investigation and to prepare a report which will thereafter be introduced as evidence in these proceedings. Until this report has been prepared and introduced, and all the parties have had a fair opportunity to present their evidence and to cross-examine witnesses, no conclusion will be reached.

* * * * * * *

"I assume that it will be entirely unnecessary to say that the Railroad Commission approaches this case, as every

other case, with an absolutely open mind and with an earnest desire to ascertain all the facts, so that a just and constructive solution of the problem may be reached. It is our intention to view this problem in the largest possible [fol. 43] aspect and to reach a conclusion which will serve the needs not merely of today, but also of the future. The people of the City of Los Angeles and the surrounding communities and railroads are entitled to an exhaustive and thorough consideration of the problems here presented and such consideration they will receive from the Railroad Commission.

"In this work, which will mean so much to the people of this community and the surrounding communities, as well as the railroads, the Railroad Commission, of course, expects the fullest consideration and cooperation from all parties—the complainants, the railroad companies, and the public authorities."

In December, 1917, public hearings by the Commission were continued until further notice pending the completion of the report which the Commission had instructed its engineering department to make.

(c) Federal control

Shortly after the assumption of operating control of the country's railroads by the federal government, the United States Railroad Administration issued its general order for the unification, as far as possible, of railroad facilities, including terminals in cities. Los Angeles was one of the cities whose terminals the Director General of Railroads desired to unify. He made request on this Commission to give him the benefit of its investigation and its recommendations in the Los Angeles grade crossing and terminal situation. As a result of this request, the Commission's engineering department made two reports, the first one in September, 1918, and the second in January, 1919. Both of these reports contained recommendations that could be put into effect during federal control and calculated to improve certain unsatisfactory traffic and grade crossing conditions, with the effect of considerable immediate savings in operating costs. While the [fol. 44] recommendations in the first report were urged

upon the Director General by the Commission alone, the proposals in the second report were the joint recommendations of the Railroad Administration's own engineers (who had been assigned to this problem by the Director General) and the engineers of this Commission.

These emergency recommendations, looking towards temporary unification of transportation facilities as a war measure, ceased to be controlling with the end of the war. With the railroad emergency passed and with the termination of federal control in sight, it was possible again to look towards the permanent rather than a temporary solution of the Los Angeles grade crossing and terminal problem, and the Commission's engineering investigation was continued on that basis.

(d) Completion of Engineering Investigation and Subsequent Proceedings

In July, 1919, the investigation by the Commission's engineers was completed and the chief engineer made his report to the Commission. This report was printed and distributed to all of the parties to these proceedings and was also made generally available.

At a hearing held February 17, 1920, the Commission arranged for a conference of engineers representing all interests to study the engineering department's report and to ascertain those matters on which there was agreement and those on which there was disagreement, asking the engineering conference to report to the Commission and give its reasons for the disagreements, if any. After a hearing on April 22, 1920, the Commission decided to withhold from consideration by the engineering conference questions of policy, apportionment of costs, operating agreements and financing.

The engineering conference made its report to the Commission on August 13, 1920, and a number of further public hearings were thereafter held until the proceeding was submitted.

A large number of exhibits were filed by the various parties to these proceedings. Much testimony was taken [fol. 45] and witnesses for the complainants, the defendants, and the Commission were examined and cross-examined at great length. Arguments by counsel were heard

by the Commission and briefs were filed, and the matter is now ready for a decision.

Since it will become necessary in this and in probable future decisions in this proceeding to make reference to some of the numerous exhibits introduced in these cases, a complete list is attached to this decision as Appendix "A".

2. Results of Commission's Engineering Investigation

(a) Commission's Exhibit No. 1

Commission's Exhibit No. 1, entitled "Report on Railroad Grade Crossing Elimination and Passenger and Freight Terminals in Los Angeles," by Richard Sachse, chief engineer, and dated July 31, 1919, contains the results of the investigation made by the Commission's engineers. As stated above, this report was printed and distributed not only to the parties in this proceeding, but to others interested in this matter.

The report goes exhaustively into all of the engineering matters before the Commission in these proceedings and deals with the following main divisions:

(a) Grade crossing elimination,

(b) Union passenger terminal,

(c) Joint main line and industrial trackage,

(d) Improvement and possible rearrangement of freight and facilities,

(e) Electric interurban, street railway, and automobile traffic,

(f) City streets, viaducts, and bridges, and the relation of the transportation problem to the general subject of city planning.

Again, the engineering investigation distinguishes between:

(a) Work to be done within the city limits of Los Angeles,

[fol. 46] (b) Work to be done outside the city limits of Los Angeles.

The work contemplated is dealt with in the report under the "unit system," and a program is laid down for—

(a) Work to be commenced and carried out immediately after a plan has been adopted,

(b) Work to be carried out later, and

(c) Work for the more distant future.

It will not be possible, in this decision, to review Commission's Exhibit No. 1, even in a summary way, and only the conclusions and recommendations of the chief engineer, contained in this letter to the Commission, of July 31, 1919, will be here quoted.

"It will be convenient to give to the Commission in this letter our conclusions in the three main branches of the investigation (possibility of grade crossing elimination; desirability, location and plan for a union passenger terminal; possibility for improvement in the freight situation) and in the matters related to these three main branches."

## Grade-crossing Elimination

This is the most important of the three subjects and is the one that is of the most vital importance to the public and to the railroads. It is also the controlling engineering element in the entire report and, to a large extent, governs the solution of the union terminal and freight problems. We believe that all complaints against the unsatisfactory grade crossing conditions in Los Angeles, within the scope of this report, can be satisfied and that a permanent solution of the problem can be had by the adoption of our recommendations. These are:

1. Eliminate all important grade crossings on both banks of the Los Angeles River through the depression of [fol. 47] the railroad tracks and the elevation of the streets by means of the improvement of existing, and the construction of new, viaducts across the river and across the tracks adjacent to the river. The streets to be so treated are North Main, Macy, Aliso, East First, East Fourth, East Seventh and East Ninth streets. The North Spring street crossing is to be entirely eliminated and Alhambra avenue crossing is to be protected by an improved interlocking plant. The

recommendations should be carried out substantially in the order and according to the plans given in this report.

2. Allow tracks to remain on Alameda street but eliminate all (except approximately 3 per cent) of the present railroad traffic by diversion to better channels. The remaining traffic (consisting of switching service) is to be handled at night between Macy and Ninth streets. Eliminate all main line traffic from Alameda street.

3. Bring about the elimination of Sixty-first street, eight electric railway, and two steam railroad crossings by the adoption of the Santa Fe plan for an improved line between Los Angeles and Pasadena. Bring about the elimination of an additional twenty-eight grade crossings on the Salt Lake Railroad by requiring that road to join in the construction and the use of the proposed Santa Fe line and by the abandonment and removal of its present tracks between the termini of the proposed line. If, in addition to the existing rapid transit lines, a municipal electric line should be built between Los Angeles and Pasadena, this line should be located on the same right of way (additional width to be acquired) and should be combined with the Santa Fe and the Salt Lake between Los Angeles and Pasadena.

4. Depress Santa Fe avenue and raise the Butte street tracks to eliminate the grade crossing at Butte street and [fol. 48] Santa Fe avenue.

Union Passenger Terminal:

After a most exhaustive consideration of all arguments for and against a union passenger station in Los Angeles, we have come to the conclusion that the establishment of such a station is desirable both from the standpoint of the public and from the standpoint of the railroads, that the cost is justified and that the project can be financed. The reasons for this conclusion are given in detail in the body of the report.

We have found three sites adapted to the location of such a station, viz: The Plaza site, the Santa Fe station site, and the Southern Pacific station site. Detailed plans and estimates have been worked up by us for each of these locations, and the recommendations contained in the report have been fitted to each of the plans. Of the three

plans, the Plaza plan is the best and it is our recommendation that the Commission order the establishment of a union passenger station at this site substantially in accordance with the plan we have developed.

Freight:

We believe that the matter of proper freight facilities is of even greater importance to the city of Los Angeles than the matter of steam railroad passenger facilities. It is our conclusion that freight traffic conditions are not unsatisfactory and that no far reaching recommendations are necessary to bring about such further improvements as appear to us desirable. Our recommendations in this connection are:

1. Tracks should not be removed from Alameda street at this time, but all possible traffic should be removed from that street (see recommendation No. 2 above).

2. The so-called "Santa Fe alley spur" should be re-
[fol. 49] moved north of Butte street.

3. Dealing with switching service and spur tracks for the future, we recommend that:

(a) New permits be not granted for industry tracks longitudinally in the streets.

(b) All tracks now longitudinally in the streets be confined to industrial purposes only and be removed as soon as better access to the industries served can be obtained.

(c) All spur tracks to be built in general easterly and westerly direction from the river banks and not across east and west streets unless, by such construction, the crossing of important north and south streets is avoided.

4. The establishment of a union freight station for less than carload freight at Santa Fe freight yard site on Santa Fe avenue from First to Seventh streets is recommended. The present Santa Fe freight station is to become a part of this union freight station. This we consider a very important recommendation and one that will be of great and permanent benefit to the railroads and to the shippers in Los Angeles.

5. The establishment of team yards along the east side of Alameda street is recommended, as outlined in the report.

6. We recommend the construction of new freight yards farther away from the industrial district. A new yard is recommended for the Southern Pacific, following the plans of this road, along the San Fernando road, and a new yard for the Santa Fe is recommended on the Fullerton line just east of Hobart, on land already acquired.

Related Recommendations:

Related to the foregoing recommendations are certain other matters that are either before the Commission in various applications consolidated with this proceeding or that are important factors in the terminal problem and that [fol. 50] fall within the scope of this report.

1. Union Passenger Station and Electric Interurban Service.—If our recommendation for the establishment of a union passenger station at the Plaza is adopted by the Commission, we recommend also the construction of a subway from the present Pacific Electric station at Sixth and Main streets northerly along Main street to and under the passenger station, changing to an elevated railroad along Ramirez street and meeting the present line at the Aliso street bridge. This line from here would continue as an elevated railway to Brooklyn avenue where the present tracks and grade would be met. This subway construction along Main street should be undertaken within the next five years.

The present elevated Pacific Electric structure in the rear of the Main street station should be extended to Alameda street and thence south to Fourteenth street.

We realize that this is a far-reaching recommendation but believe it justified and essential in the interest of transportation and city development in Los Angeles, for reasons given in the report.

2. Continuation of Consolidated Uptown Ticket Office.—This matter is related to our recommendation for a union passenger station. We urge that the existing consolidated uptown ticket office be continued, pending the establishment of a union passenger station after the railroads return to private control. This recommendation is made because the present arrangement instituted by the United States Railroad Administration has proved satisfactory in every respect to the public and to the railroads.

3. Application No. 3346 (Southern Pacific Company and Salt Lake Railroad for approval of agreement covering joint terminal facilities.—It follows as a result of the recom- [fol. 51] mendations contained in this report that this application should be dismissed.

4. Application No. 2962 (Industrial Terminal Railway to issue stock for the construction of a switching and terminal railway).—This application should be dismissed for the same reasons, although it will probably appear that with the adoption of our recommendations another application of this nature will likely be filed later on in a modified form.

5. Application No. 3037 (Los Angeles and Salt Lake Railroad Company for authority to establish fourteen grade crossings in order to enable the construction of a freight terminal on Alameda street).—We recommend that this application be denied since our recommendation for a less than carload union freight station at the Santa Fe site will take care of all such freight requirements.

6. Case 938 (Interlocking at Aliso street and the Los Angeles River).—In this case the Commission made its order directing the installation of an interlocking plant to control the Pacific Electric Railway, the Santa Fe and the Los Angeles and Salt Lake roads at this point. A supplemental order was later issued holding the matter in abeyance pending the completion of this report. Since our recommendations for the separation of grades and for a union passenger station will eliminate this crossing, the construction of this interlocker will not be necessary. An order should be issued to this effect after the adoption of our recommendations.

7. Pairing of Southern Pacific and Salt Lake Tracks Between Los Angeles and Colton.—The recommendation for such pairing of tracks was made to the Director General jointly by the engineers representing the federally controlled railroads and by the Commission. Although this recommendation is very clearly to the benefit of the interested railroads and although the improvement can be made with very small expenditure and although an annual saving in the cost of operation was estimated at $173,025 [fol. 52] (and this estimate has in the meantime increased),

nothing has been done to carry out this recommendation. We can see no reason and have no explanation for the inaction on the part of the United States Railroad Administration. The recommended plan will work perfectly with our recommendations and we again urge that the proposed pairing of tracks as outlined in the report be put into effect by the action of this Commission as soon as the operating control of the roads is released by the Federal Government."

Detailed cost estimates for the work included in these recommendations are contained in Commission's Exhibit No. 1. In these estimates, distinction is made between the costs of the various steps in the proposed ultimate plan, with the ultimate capital expenditure for all recommendations estimated at $32,233,445. Referring to this grand total, the report states:

"While a capital expenditure of over $32,000,000 seems large, it should be remembered that this money is to be expended over a term of years. In any event, whether the foregoing recommendations are adopted or not, very large capital expenditures aggregating probably in the neighborhood of the sum estimated by us will become necessary in the near future if the transportation of Los Angeles is to keep pace with the growth and the industrial and business development of the city. The choice is not between a large expenditure if these recommendations are adopted and a small one if they are not adopted; it is rather between an adequate and carefully planned development without wasteful expenditures and a haphazard growth dictated, in the main, by private interests from the standpoint of each individual road. In either case the burden of capital and operating costs must, in the end, be borne by the public.

It is impossible to estimate in dollars the direct and indirect savings and benefits through the carrying out of these plans that will accrue to the railroads, to the pas- [fol. 53] sengers and to the shippers, and also to the people and enterprises affected by transportation conditions. We have no hesitation in saying, however, that, from the financial standpoint alone, the proposed expenditure is justified."

(b) The Engineering Conference

There was opposition to and disagreement with, principally on the part of the railroads, certain of the conclusions and recommendations contained in Commission's Exhibit No. 1. This disagreement involved also what seemed to the Commission questions of fact and, in order to have the fullest information on all important engineering matters, it was decided to refer Exhibit No. 1 to a conference of engineers representing all parties.

Instructions were given to the engineers to carry this conference forward for the purpose of establishing, as clearly as possible, all matters of agreement and disagreement and to lay before the Commission the conference's views on the information and recommendations contained in this exhibit. In the course of the conference's activity, the question of the scope of its work arose and this matter was settled by the Commission's instructions issued as a result of the hearing held on April 22, which read as follows:

"The following instructions should govern the work of the engineering conference appointed to study the Los Angeles terminal report:

(1) The conference should consider the following engineering matters on the basis of the engineering department's report:

(a) As regards grade crossing elimination and freight improvement, all matters of design, track layout and arrangement of facilities.

The matter of a passenger treminal is to be handled as follows: The conference is not to recommend the location of a union passenger terminal; nor is it to report on the policy of establishing such a terminal. It is to report on [fol. 54] the three plans for passenger terminals set forth in the Commission's engineering department's report as to design, track layout, cost estimates, and operation.

(b) Matters of unit costs and estimates for the work proposed under the various subdivisions of the report.

(c) Matters of the advantages and the disadvantages of possible locations of the structures and facilities contem-

plated in the report, including grade separations and freight facilities.

(d) Matters dealing with proposals and recommendations on electric transportation and recommendations affecting interurban rapid transit and street railway traffic.

(e) Matters of operation and traffic, including street, electric and steam railway traffic and all other traffic in so far as it is affected by the problems under consideration.

(2) The engineering conference is not expected to deal with the following matters:

(a) Apportionment of costs between the various parties.

(b) Traffic arrangements and operating agreements as between the various parties.

(c) Methods of financing.

(3) The Commission would like to have the conference report on the matters on which there is agreement between the engineers and on the matters on which there is disagreement, with reasons for the disagreement, if possible."

The engineering conference, in which twenty-two representatives of the various parties and three engineers of the Commission participated, divided its work among six subcommittees—grade crossing, union passenger terminal, freight, rapid transit and street railways, estimate, and electrification. These subcommittees reported their conclusions and these, together with the summarization by the Commission's chief engineer and certain exceptions taken by individual engineers, were introduced as Commission's Exhibit No. 2.

[fol. 55] It may be said that the result of the engineering conference was an indorsement of the recommendations of the Commission's engineers, with certain changes and modifications in the proposed plans and with a revision of the cost estimates, due mainly to a revision of prices and costs as of March, 1920, reflecting the increased costs of labor and materials. This indorsement of the recommendations in Commission's Exhibit No. 1, however, was not unanimous, the Southern Pacific-Salt Lake-Pacific Electric engineers remaining in opposition to any plans not in

conformity with the proposals advocated by this carrier group. The plans of these three interested railroads will hereafter be discussed. As a result of the study made by the engineering conference, the Commission's engineers revised certain of their plans and adopted a number of suggestions made by the conference. These revisions and changes are set forth in Commission's Exhibit No. 2.

### 3. The Position of the Railroads

There are involved in these proceedings all of the steam and electric railroads operating in Los Angeles. The two steam lines, the Southern Pacific and the Salt Lake, and the interurban electric and street railway, and Pacific Electric occupy, in general, the same position on the major questions concerned in these cases. The Sant Fe occupies an independent position and the Los Angeles Railway, the local street railway, is affected and interested to only a minor degree.

#### (a) The Southern Pacific-Salt Lake-Pacific Electric Position

The view of these three carriers is set forth in the brief filed by counsel for the railroads. Substantially, it is as follows:

It is denied that the Commission has jurisdiction to order the joint use of tracks or terminal facilities of interstate railroads.

The freight terminal and industrial situation as it now exists in Los Angeles is satisfactory to all concerned.

[fol. 56] Complete grade elimination may be effected under the Southern Pacific-Salt Lake plan.

The Commission's engineers' plan for relieving interurban traffic is impracticable.

The elimination of grade crossings will cost less under the Southern Pacific-Salt Lake plan than under any other plan.

Public interest does not require the establishment of a union passenger terminal, the question of expense is controlling and the expense of a terminal at the Plaza is prohibitive.

The adoption of the Southern Pacific-Salt Lake-Pacific Electric plan meets the requirements of the traveling public, the city and the carriers. The Southern Pacific-Salt

Lake plan, as it was placed before the Commission in Application No. 3346 and modified subsequently by the railroads, as shown on the so-called Titcomb plan, provided substantially for the joint use of the present Southern Pacific passenger station at Fifth and Alameda streets and for joint use of Salt Lake trackage on the east side of the Los Angeles River, together with elevated track connections commencing in the vicinity of Sixth and Alameda streets and running easterly and by bridge across the Los Angeles River to a connection with the tracks of the Salt Lake. Provision is also made for a proposed passenger train car yard to be located on property of the Salt Lake Company, and for an ultimate joint interchange yard, upon property of the Southern Pacific, between Dayton avenue and Aliso street.

The agreement also provides that the Salt Lake shall grant to the Southern Pacific, for the sole use of the Pacific Electric, without rental therefor, a right of way for the construction and operation of a double-track electric railway on the Salt Lake right of way, along the east bank of the river. It contemplates the continuation of the present Pa- [fol. 57] cific Electric elevated structure from San Pedro street easterly to Alameda street. At Alameda street, the Pacific Electric tracks would cross over the Southern Pacific steam elevated railroad, involving what may be called a "two-story crossing." West of Alameda street, the Pacific Electric tracks would run parallel and adjacent to the Southern Pacific tracks across the river to the right of way to be acquired from the Salt Lake to a connection with the present line. The construction and rearrangement of numerous facilities are made necessary and are contemplated in this plan.

The plan itself and the agreement between the railroads do not make provision for a comprehensive elimination of grade crossings. The three roads declare themselves in general agreement, however, with the general plans shown in Commission's Exhibit No. 1, for the separation of grades.

The Southern Pacific is opposed to the Santa Fe's use of the proposed Southern Pacific-Salt Lake union passenger depot.

The position of the Pacific Electric was stated by its President, Mr. Paul Shoup, who declared:

"Our position is tied up absolutely, speaking as a Pacific Electric officer now, with the Southern Pacific and Salt Lake

plan, and none other is acceptable or would be acceptable to us among the plans presented."

It may be stated, therefore, that the position of these three railroads is in favor of the grade crossing elimination program as developed by the Commission's engineers, and is in favor of a joint passenger station, provided that such a station is located at the point selected by these railroads and provided the joint track and other facilities are constructed in accordance with the railroads' plans; and further provided that the Santa Fe has no part in such joint use. These three roads are opposed to any proposals that are in conflict with these proposed arrangements.

[fol. 58] (b) The Santa Fe's Position

The Santa Fe is in favor of a separation of grades under a reasonable plan in general agreement with the plan outlined in Commission's Exhibit No. 1.

The company calls attention to the necessity of careful consideration in the final adoption of grade separation plans of the flood conditions of the Los Angeles River and the necessity of lowering the Santa Fe main line tracks, and, especially, to the importance of a proper division of the expense. A separation of grades between Los Angeles and Pasadena this company believes to be a matter for the future, because of the large expense involved.

The Santa Fe is opposed to a union freight station for handling less than carload business.

In the matter of a union passenger station, the counsel stated the view of the railroad as follows:

"Commissioner Edgerton: Well, Mr. Camp, if there was—and I only say this to get an expression of position from you—if it was decided that the union terminal passenger station was advisable, which of the various ones suggested does the Santa Fe prefer?

"Mr. Camp: Well, of the three which Mr. Sachse says are the only three which have been proposed, I understand that we would not prefer but we would dislike least the Plaza. But we are very far from standing here and advocating the Plaza site. We are not at all. And it does seem to us that the Commission could leave that to the very indefinite future, go ahead with the elimination of grades. Now, the first proposition, as I understand it, is to eliminate grade

crossing at Aliso and at Macy streets, and that can be done without any reference to any union terminal station, passenger or freight. Why shouldn't it be done? And then discuss the terminal proposition at our leisure, say somewhere about 1935, or something of that sort."

[fol. 59] (c) Position of Civic Organizations

The Business Men's Association is in favor of the ordering by the Commission of steam railroad crossing elimination along the river and approves of the Salt Lake-Southern Pacific-Pacific Electric plan substantially as presented by these roads, and opposes the establishment of a union L. C. L. freight station.

The Central Development Association of Los Angeles indorses in all essentials the plans and recommendations of the Commission's engineers in Exhibit No. 1 and urges an order by the Commission adopting these plans and providing for successive steps for their consummation. A similar position was taken by the Los Angeles City and County Viaducts Association, the Northwest Association, the Brooklyn Avenue and Malabar Improvement Association and by the Civic Center Association.

The Business Men's Cooperative Association is in favor of the adoption of a comprehensive terminal and grade crossing plan and indorses the recommendations contained in Commission's Exhibit No. 1, especially as to the items of grade crossing elimination and union passenger terminal. This association, as also the organizations mentioned in the preceding paragraph, is opposed to the Southern Pacific-Salt Lake-Pacific Electric plan.

The Municipal League of Los Angeles suggests a further investigation, by the Commission, of a possible additional site for a union passenger station (at Sixth street and the east bank of the Los Angeles River), which has not been reported on by our engineers, and on which no plans or estimates, except general sketches, are before the Commission. The Municipal League, however, has indorsed and is in favor of the grade crossing elimination plans in Commission's Exhibit No. 1.

(d) Position of the City

Throughout these proceedings the city has maintained the position that an impartial and reliable investigation of

the problems included in these cases should be made and [fol. 60] that a program for their solution should be adopted based strictly on the merits of each feasible plan. The city urges that the Commission give due consideration to the necessity and convenience of the traveling and local public in Los Angeles and of the needs of the city as an important freight traffic center. The city also urges that the growing importance of Los Angeles, measured by the increasing population and industry, should be kept in mind and that relief be planned having regard to the reasonable needs of the future.

From this standpoint the city authorities and the city departments worked in close cooperation with the Commission's engineers during the investigation. The fact of the city contributing a considerable portion of the cost of the investigation further substantiated this position. The city has expressed its desire to further cooperate with the Commission in bringing about the realization of such plans as may be adopted and has offered to assume its share of the necessary cost. The city's attitude has been expressed by the city council in formal resolutions after submission of the case, from which we quote:

"Whereas, For some years the matter of eliminating grade crossing and coordinating and readjusting the transportation lines of the city of Los Angeles, so that the same shall represent modern, up-to-date, convenient and safe transportation in the city, has been before the public of the city and surrounding municipal communities, and during that time considerable money has been spent by the city to secure the opinion upon the matter of numerous experts; and

"Whereas, The city has obtained the opinion of the great municipal transportation expert, Bion J. Arnold, of Chicago, upon the matter, and that opinion specifies as a necessary factor in accomplishing these purposes the creation within the city of Los Angeles of union passenger and freight stations; and

[fol. 61] "Whereas, Later a commission appointed by the city, consisting of three able and impartial engineers, announce that in their judgment the creation of joint passenger and freight terminals was necessary to the solution of these problems; and

"Whereas, Finally, at a cost of $20,000 to the city, the matter was taken up with the State Railroad Commission for investigation and determination, and the engineering experts of the Commission have, after many months of investigation, rendered an elaborate and costly report in which they also found that the creation of passenger and freight terminals were necessary to the accomplishment of the above mentioned purposes; and

"Whereas, The City Planning Commission, recently appointed by the council for the purpose of making plans for the systematic development of our city along lines which shall provide for civic beauty as well as civic convenience and necessity, finds itself unable to enter upon the making of said plans until the matter of abolishing grade crossings and coordinating our city transportation service in union stations is decided upon and the same are definitely located; therefore, be it

"Resolved, That the State Railroad Commission is informed that it is the judgment of this body that these matters should be decided upon as soon as possible, and that their decision, in accordance with the universal findings of the above mentioned engineering experts, should provide for the establishment of both union passenger and freight stations in the city of Los Angeles, and no other solution will satisfy this council."

(From resolution of city council of August 30, 1920.)

And, further from resolution of city council of November 3, 1920:

"Whereas, The chief engineer of the State Railroad Commission has appeared before this council and explained in [fol. 62] detail to it his report to the State Railroad Commission; and

"Whereas, This council is deeply interested in having the State Railroad Commission decide the matter before it in a way which will best serve the interests of the city of Los Angeles, by the most complete elimination of railroad grade crossings and by providing the most efficient and comprehensive coordination of the transportation facilities of the city in a way which will best serve the present interests of the city and will most effectively provide for the entrance of other railroads desiring to build to the city in the future

as well as for the extension of the present Harbor Terminal Railroad now owned by the city to a union station in the city to the end that our great and rapidly growing city shall, for both the present and the future, have the most efficient transportation service; and

"Whereas, The city council, knowing that the State Railroad Commission has had the services of the best engineering experts and has, with the assistance of such experts, gone into the whole matter in a most complete and exhaustive manner, and we have the fullest confidence in the judgment and honesty of the Commission and its capacity to render a decision which will best serve the interests of all concerned; now, therefore, be it

"Resolved, That in view of the great importance of this matter to our city, we respectfully request of the State Railroad Commission as prompt a decision as is compatible with existing conditions, in order that proceedings may be speedily begun toward relieving the dangerous and intolerable conditions now existing; and be it further

[fol. 63] "Resolved, That this council desires to assure the State Railroad Commission of its readiness and willingness to cooperate with the Commission in any and every way in carrying out its findings and recommendations; and be it further

"Resolved, That the city attorney be instructed to file no brief with the State Railroad Commission, either advocating or criticising any of the various suggestions made to said Commission in the hearings of these cases."

Aside from the official position of the parties to this proceeding, there have been filed with the Commission numerous resolutions by chambers of commerce, improvement associations, civic and commercial organizations, and by local authorities of communities adjacent to Los Angeles indorsing or condemning the so-called Southern Pacific-Salt Lake-Pacific Electric plan and also indorsing or condemning all or part of the recommendations made by the Commission's engineers and by the engineering conference.

### 4. Conclusions of the Commission

There can be no doubt that the issues before the Commission have had a most thorough and impartial consideration

and that every party represented has had the fullest opportunity to present its claims and to develop the advantages and weaknesses in any of the plans that have been presented. It is also apparent that the pending matter involves many technical questions which must be decided upon findings of fact made by technical men. Aside from the technical questions, a comprehensive program depends for its fulfillment to a great degree upon action within jurisdiction of the city, especially in so far as the matter of vacating or opening of city streets are concerned and in the matter of making available such portion of the cost of improvements as the city should bear.

The attitude of the carriers is quite clear. They are concerned with their own individual plans and there is no pros- [fol. 64] pect that they will cooperate on their own accord to bring about a unification of transportation facilities with a view to reducing operating expenses or bettering the service and they are opposed to the adoption of a unified plan that will lay down the lines of their development in Los Angeles for the future.

The carriers are opposed to any considerable expenditures of new capital and this is a matter that must be given careful thought by this Commission. It is clear, however, that large expenditures will have to be made by all the carriers, the steam railroads, as well as the Pacific Electric, for urgently needed betterments, regardless of whether these expenditures are made by each railway in pursuance of its individual plans or whether they are made jointly in the working out of a unified plan. While we are mindful, therefore, of the fact that the question of cost in the last analysis may be the determining factor, we cannot ignore the other fact that large capital expenditures have to be incurred in any event by the railroads and by the city. The conclusion is reached in Commission's Exhibit No. 1 that the choice is not between a large cost if a unified plan is adopted, as against a small one if no plan is followed. The choice is between an adequate and well planned development, on the one hand, and between inevitable wasteful expenditures and a haphazard growth dictated by the interests of the individual roads, keeping in mind that in either case the burden of capital and operating costs must, in the end, be borne by the public.

The soundness of this conclusion has been confirmed by the testimony of all witnesses in this proceeding and we have no doubt of the superiority of a well thought out plan to take care of the present and future transportation needs of Los Angeles, as compared with haphazard competitive development, provided it is possible to carry out such a plan at a reasonable cost.

This opinion is in accordance with the conclusions [fol. 65] reached not only by every technical and expert study made in recent years in similar terminal problems elsewhere in the United States, but it is also the view adopted by the owners of the railroads themselves. The recognition of the necessity that in the future we must have in this country unified railroad terminal development in the larger cities has been definitely incorporated by Congress in the new Transportation Act. It is in that act also recognized that it will not be sufficient to leave the necessary terminal unification to the carriers alone. Power is given the Interstate Commerce Commission in the Esch-Cummins Act to order terminal unification.

This, it seems to us, is a sound and inevitable development. With the present relation between the railroads and the people, whereby the government undertakes to fix rates under a prescribed system designed to give to the railroad as nearly as may be a guaranteed income, in addition to a guaranteed reimbursement of operating expenses, it seems self-evident that every effort must be made to furnish the best possible transportation facilities at the lowest possible cost. It has been amply demonstrated in recent years that the points of greatest waste and greatest congestion in the railroad system are the terminals. We believe, therefore, that unification of terminals, wherever such unification is physically possible, and wherever operating economies can be effected, is bound to come and is only a question of time.

Applying these considerations to the proceeding before us, it is also evident that the elimination of grade crossings in the heart of the city, along the banks of the Los Angeles River, and on the main lines approaching the city can be accomplished with greater certainty and at less cost than if grade crossing elimination is imposed upon each separate railroad as a separate undertaking.

The conditions in Los Angeles for a unified treatment of [fol. 66] the railroad problem appear to be almost ideal.

This is the conclusion in this proceeding, not only of the Commission's engineers, of the engineers of the city of Los Angeles, and the engineers representing parties other than the railroads, but the same conclusion was reached in investigations made by other engineers in years past. Similar decision was reached by a committee appointed by the mayor of Los Angeles upon request of the public utilities committee of the council to study this question on the basis of Commission's Exhibit No. 1. This committee, after an exhaustive study, made the following final recommendations in its report to the mayor and to the city of Los Angeles:

"First. The immediate abolition of grade crossings by carrying out the design of depressed tracks along the river banks, and the building of a union passenger station at the Plaza, and the development of a multiple system of L. C. L. freight terminals, in general accord with the design set out in the report; and

Second. That the city join with and continue to cooperate with the State Railroad Commission in carrying out the plans for the above mentioned design, as set out in the report of the chief engineer of the Railroad Commission, accompanying his letter of transmittal of July 31, 1919."

The engineers of all the steam railroads involved in this proceeding, who have taken part in this investigation as employees of the individual carriers, but who, during federal control, were employees of the United States Railroad Administration, then expressed themselves as in agreement with the principle of terminal unification and so reported to their respective superior federal officers.

We believe that the terminal unification and the grade crossing problem should not be disassociated and that the adoption of a plan providing for both problems is essential.

(a) Grade-crossing Elimination

[Tol. 67] There appears to be no disagreement as to the necessity and urgency for the elimination of the railroad grade crossings on both banks of the Los Angeles River and along Alameda street. Neither is there any material dispute as to the method to be employed to bring about the elimination of the river grade crossings. To remedy the Alameda street situation requires changes in the existing

passenger and freight facilities and there is some dispute as to the methods to be followed to eliminate these crossings.

All parties appear to agree that the program and method for grade crossing elimination proposed in Commission's Exhibit No. 1 is a feasible and sound one. It remains to determine what should be the first step in the crossing elimination plan and, after definite and detailed plans for the elimination of the separate crossings have been filed with and accepted by the Commission, to apportion the cost to the interested parties.

Traffic studies made by our engineers, and reported in Commission's Exhibit No. 1, indicate that in 1917-18 about 65,000,000 people annually crossed the Los Angeles River and the tracks of the Santa Fe on the west side and of the Salt Lake on the east side, adjacent to the river, divided as follows:

| | People per annum |
|---|---|
| Over present 5 grade crossings | 33,000,000 |
| Over present 4 viaducts and bridges | 32,000,000 |
| Total | 65,000,000 |

The railroad traffic at the time of the investigation amounted to about 560 train movements each day, from 6 a. m. to 8 p. m., or at least 600 movements for 24 hours for the five existing grade crossings mentioned. On Seventh street the crossing gates were found closed as much as 19 per cent of the daylight hours.

Numerous accidents have occurred on these crossings and the delay to vehicular traffic and to interurban electric [fol. 68] cars, as also to street cars, is serious. There is no dispute that public safety, necessity, and convenience require the abolition of all of these grade crossings.

Commission's Exhibit No. 1 proposes that elimination be brought about by construction or reconstruction of viaducts across the railroads and the river with suitable grades of approach and through depression of the railroad tracks and the elevation of the streets. The streets affected by the river crossing program are the following: North Spring, North Main, Alhambra, Macy, Aliso, East First, East Fourth, East Seventh and East Ninth, and the detail of the

recommended depression of tracks and elevation of streets at these points is shown in Commission's Exhibit No. 1. The engineering conference, above referred to, approved of all these designs except at Aliso street. There it was advised that the bridge should, in the future, provide for vehicles and pedestrians as well as the Pacific Electric tracks. The Commission is in agreement with this suggestion and when definite plans for this particular crossing are made, the design appearing on page 173 of Commission's Exhibit No. 1 should be modified accordingly.

On Alameda street, the traffic studies indicate that in a year of the investigation approximately 78,000,000 people crossed Alameda street in its most congested part (Spring street to Alameda street) divided as follows:

| Location | Important streets | Electric railways | People crossing tracks per annum |
|---|---|---|---|
| North of Arcade station | 9 | 6 | 59,000,000 |
| South of Arcade station | 4 | 1 | 19,000,000 |
| Totals | 13 | 7 | 78,000,000 |

The railroad traffic is very heavy; the average street north of the Arcade station is crossed by 157 train movements each day, and the average street south of the station [fol. 69] is crossed by 98 train movements.

Accidents have occurred and there is an important delay to both railroad, vehicular and electric railway traffic. At both Sixth and Seventh streets the crossing gates are down over 15 per cent of the daylight hours. Both danger and delay will increase as time goes on.

It is not practicable to bring about on Alameda street a physical separation of grades. For reasons stated fully in Commission's Exhibit No. 1, it is recommended by our engineers that the tracks be allowed to remain in that street, but that all except approximately 3 per cent of the present railroad traffic be diverted and that the remaining traffic, consisting of switching service only, be handled after midnight between 1 and 6 a. m. between Macy and Ninth streets. All mainline traffic should be eliminated. This will do away with practically all danger and inconvenience resulting from grade crossing movements and will, at the same time, not disturb existing business and industrial conditions. Practi-

cally no increase in railroad operating costs is expected to result from this important change. The engineering conference, as also the mayor's and city council's advisory committee, is willing to continue industrial trackage and switching service on Alameda street with the understanding that Alameda street tracks shall not be connected with any station yards or express yards, nor switching yards nor team yards, but that all such facilities shall be reached by tracks directly from the main lines on the river bank. The Commission believes that the suggested provision should be made an essential condition of the proposed Alameda street arrangement.

In Commission's Exhibit No. 1, it is recommended that between Los Angeles and Pasadena all grade crossings of the Santa Fe and of the Salt Lake be eliminated. This is to be effected by a reconstruction and partial relocation of the existing Santa Fe line and abandonment of the present Salt Lake line and the latter road's participation in con- [fol. 70] struction and joint use of the new trackage or roadbed. This plan will eliminate 61 street, 8 electric railway, 2 steam railroad crossings on the Santa Fe and 28 grade crossings on the Salt Lake. The Commission believes that this important grade crossing elimination plan should form a part of the general plan which it is proposed to lay down in this decision. We are of the opinion, however, that this work need not form part of the first step of such grade crossing elimination as should be immediately undertaken.

This first step should provide for grade separations at Macy, Aliso and Seventh streets. This selection is because of the fact that at Macy street the vehicular traffic is heavier than at any other existing crossing and the present highway bridge is entirely inadequate to handle this traffic. The present bridge is of inexpensive wooden construction and well along toward the end of its life. There is involved the crossing of three steam railroad tracks—two Santa Fe tracks on the west side of the river and a Salt Lake track on the east side.

Grade separation at Macy street should be made substantially in accordance with Figure 41, page 168, of Commission's Exhibit No. 1, that is, by depression of the railroad tracks adjacent to the river to elevation 272.0, city datum, and by raising Macy street to elevation 297.0. The

grades of approach on Macy street should be 4 per cent, as shown on Figure 41, just mentioned.

Grade separation at Macy street, according to this plan, being predicated on partial depression of the tracks, it is absolutely necessary that the Aliso street crossing be eliminated at the same time, because of the short distance between these streets and the fact that practicable railway grades cannot be laid leaving either street at its present elevation and separating the railway and street grades at the other.

Grade separation at Aliso street should be accomplished [fol. 71] substantially as shown on Figure 46, page 175 of Commission's Exhibit No. 1. The local tracks only need to be constructed at this time and the plan should provide for the construction of a highway bridge as well as a railway bridge at some time in the future. The steam railway tracks should be, as shown, depressed to elevation 267.7 and the Pacific Electric tracks raised to elevation 294.2. both city datum.

In connection with the grade separations at Macy and Aliso streets the Santa Fe should take up its present main line tracks across Macy street at about Center street and across Aliso street, between Center street and Los Angeles River, and divert all its traffic to the track adjacent to the west bank of the river.

The grade crossings on Seventh street at both sides of the Los Angeles River are also immediately in order for elimination, because of the fact that the vehicular traffic is extremely heavy, as shown by Figure 22 in Commission's Exhibit No. 1 and there are three tracks of the Salt Lake on the east side of the river and four tracks of the Santa Fe on the west side. The railway traffic is also heavy.

The grades of Seventh street and the railways on the east and west banks of the Los Angeles River should be separated by partial depression of the tracks and partial elevation of Seventh street substantially as shown on Figure 56, page 185, in Commission's Exhibit No. 1.

The carriers will be ordered to submit to the Commission, within a reasonable time, definite plans and cost estimates for these grade separations based on the general plans contained in Commission's Exhibit No. 1. It will be necessary that these plans be approved or modified by the city. The Commission, after approval or modification,

will thereupon fix a fair division of cost by subsequent supplemental proceeding and order.

(b) Freight Facilities

[fol. 72] Commission's Exhibit No. 1 proposes an improvement in the handling of less than carload freight in the city of Los Angeles by provision for a union freight station at the Santa Fe freight yard site on Santa Fe avenue. The existing conditions relative to the handling of carload freight are found to be satisfactory and it is recommended that nothing be done to disturb this satisfactory situation. The importance of properly serving the large number of industries now having trackage connections with the Alameda street line is recognized, and this is the reason for the recommendation against the removal of tracks from Alameda street at this time. This matter has been discussed above in connection with the subject of grade crossing elimination.

The city urges against the adoption of a single union less than carload freight station and desires that provision be made for several of such stations in different parts of Los Angeles. There is, however, no opposition on the part of the city to the selection of the Santa Fe site for the first of such possible union freight stations. There is opposition on the part of the representatives of the railroads to the establishment of a union freight station either at the Santa Fe site or elsewhere. The railroads urge that the present practice of each carrier owning and operating its own freight stations be continued and that each carrier be permitted to develop its freight facilities in view of its own needs.

We are impressed by the arguments advanced by our engineers that the existing freight facilities in Los Angeles can not remain indefinitely in their present condition, and that large expenditures will shortly become necessary irrespective of whether the railroads act jointly or continue independent action in the future. We are not persuaded, however, that the freight situation is such as to require at this time a specific order for the establishment of a union less than carload freight station. Whether or not existing freight stations, or new ones to be established by the [fol. 73] individual railroads, shall be operated as joint

or union freight stations, may be left, we believe, for subsequent decision.

Regardless of whether or not there will come about a unification of freight facilities, we are convinced that the future handling of freight traffic in Los Angeles should be governed by certain considerations which appear to be the conclusions of a number of independent engineers who have studied this question and which also reflect the expressed desires of the Los Angeles city authorities. These are that

(1) New permits should not be granted for industrial tracks longitudinally in streets.

(2) All tracks now longitudinally in streets be confined to use for industrial purposes only and be removed as soon as access to the industries served is otherwise obtained.

(3) All spur tracks shall be built in a general easterly and westerly direction from the river banks and not across east and west streets, unless, by such construction, the crossing of more important north and south streets is avoided.

In this connection the establishment of team yards along the east side of Almeda street is also recommended and suitable locations for such yards, in conformity with the general plan suggested in this decision, will be at College and Alameda streets, at Macy and Alameda streets, at the Los Angeles Market site, and possibly at the proposed Salt Lake terminal site.

(c) Union Passenger Station

There has been presented before the Commission by the complainants in this proceeding, and by others, the most insistent advocacy for the establishment of a union passenger station and also, on the part of several of the carriers and other parties, the most insistent opposition to such a station. We are impressed that in the partisan arguments for and against a union station the essential facts have to some degree been lost sight of. We see no [fol. 74] reason why this question should not be discussed on its merits and determined in accordance with the essential facts in the same manner that it has been agreed the other branches of this investigation should be decided.

The advantages and disadvantages of a union passenger terminal, we think, have been fairly and rather completely discussed in Commission's Exhibit No. 1. The statements contained in that exhibit that the establishment of a union passenger terminal is largely a question of its desirability and of its cost, and that it is not entirely a railroad matter, but also one of public policy, we believe to be statements of fact. To give the principal reasons for and against the establishment of a union station, we quote from Commission's Exhibit No. 1:

A union passenger station is desirable for the following reasons:

(1) As a gateway to the city, Los Angeles prefers one adequate, convenient and beautiful entrance to several separate gateways, none of which can by themselves have all the advantages of a single union depot. This is a matter of civic pride and of city planning for the future. Los Angeles, by reason of its wonderful advantages as a tourist center and as a center of travel, is justified and is sound, in our opinion, in making this consideration one of the first importance.

2. There will be increased convenience to passengers. Since mail, express, and baggage are carried on passenger trains, it is more economical to handle this business at one station. Ten thouasnd dollars per annum would be saved in the handling of mail if a terminal post office were established. The express business amounts, in tonnage, to about one-fourth of the less than carload freight business of Los Angeles and much would be saved by elimination of the wagon haul between the various depots. This saving cannot readily be estimated in terms of money and is dependent on the location of the main depot. The more central the location, the greater the saving. Baggage is also transferred between the stations and—while of lesser importance in cost—increased convenience would result.

(3) Grade crossing elimination would be simplified. When it is maintained that there is no necessity for a union station, it must be remembered that the retention of more than one station will necessitate greater expendiure for the elimination of grade crossings, and, pending complete separation, will result in more vehicular movement across tracks at grade.

(4) Present passenger facilities of the Santa Fe and the [fol. 75] Salt Lake stations are inadequate. Large capital expenditures must soon be incurred in any event to satisfy present and future needs. This is true to a lesser extent of the Southern Pacific station also. A union depot will fill these needs better, permanently, and at a relatively smaller cost than piecemeal construction by individual roads regardless of the problem as a whole. If the three steam roads now had satisfactory facilities, this argument would be less important. Under existing conditions, it is of prime importance.

(5) The topographical conditions and location of the railroads in Los Angeles are almost ideal and point definitely towards a union station. These natural conditions are such that a union station can be created with comparatively inexpensive connections between the roads at a relatively small capital expenditure. Long and costly approaches are eliminated and there is no doubt that the first cost will be relatively much smaller than for a similar undertaking in other communities of equal importance in the United States.

The principal arguments against the establishment of a union station are:

(1) Los Angeles is not a through station. Practically all trains entering the city terminate there, and it is there that the majority of the passengers reach their destination. Only approximately 15 per cent of the total number of passengers transfer from one station to another.

(2) The first cost of any adequate union passenger terminal will be high and the saving in operating expenses will not alone warrant the resulting increase in fixed charges.

These points are discussed in detail in the report and the conclusion is reached that, taking all arguments into consideration, a union station is desirable, provided it is suitably located. Three locations were considered worthy of consideration and detailed analysis by the engineers making the investigation: The Plaza site, the Santa Fe site and the Southern Pacific site. A fourth, and what

might be termed the Salt Lake site on the east bank of the Los Angeles River, was suggested after the completion of the engineering investigation. The arguments for this fourth site are general and no data are before the Commission sufficiently adequate or detailed to permit of any comparison in estimates of this site with the other three. It is apparent, however, that the location on the other side of the river from the main portion of the city is a serious disadvantage, and it is also apparent that there would be opposition on the part of the city authorities and of other [fol. 76] parties to that location.

Detailed estimates and exhaustive comparative studies were made by the Commission's engineers for each of the three investigated sites. Plans for track layouts and other facilities were drawn and careful investigation was made in each case of the additional lands and other facilities required for each site, and of the lands and other facilities that would be released and become non-operative property in each instance. This information is available in Commission's Exhibit No. 1. The advantages and disadvantages of each of the three sites were set forth and the effect on cost and and operation was considered. Recommendation is made to the Commission that a union passenger station at the Plaza site be established substantially in accordance with the plans contained in Commission's Exhibit No. 1, and the reasons for the selection of that site are stated as follows:

(1) Size and Shape of Site.—The Plaza site is much wider and longer than the Southern Pacific Station site and is equal to the Santa Fe site, which is too large.

(2) Greater Architectural and Aesthetic Possibilities.—Civic pride and the advertising value of this feature is of particular significance to a tourist center. At the Plaza, a suitable park to set off the station is possible with least damage to business, and at least cost, and at the intersection of important streets. The Santa Fe freight station interferes at the Santa Fe site, which has the least possibilities in this respect.

(3) Ultimate Rapid Transit.—The Plaza site is on a more probable axis of the ultimate rapid transit system which would be nearer and more convenient to the station

than with either the Southern Pacific or the Santa Fe plans. More interurban passengers would pass the Southern Pacific site than the Santa Fe site.

[fol. 77] (4) Because of the separation of passenger tracks from the future main switching leads along the west bank of the river, there would be less interference with switching with the Plaza plan than with the Santa Fe plan, which presents bad operating conditions because of too much traffic in one place. The Plaza plan is nearly equal to the Southern Pacific plan in this respect.

(5) Least Train Coach Equipment and Light Engine Mileage.—The Plaza site is very superior to the other sites, largely due to the location at a more northerly point. The Southern Pacific plan is worst in this respect.

(6) Union Freight Station.—The Santa Fe site is particularly suitable for a union freight station, which is possible either with the Plaza or the Southern Pacific plans. The Plaza plan is equal to the Southern Pacific plan and both are better than the Santa Fe plan.

(7) Grade-crossing Separation.—With the Plaza plan, no elevated railway structures are necessary in uptown district or awkward subway and crossings in a very important thoroughfare, as with the Southern Pacific plan. The Plaza plan is nearly equal to the Santa Fe plan.

(8) Accessibility by Street-car Lines.—Sixty per cent of the passengers use the street cars. With the Plaza plan more are accommodated without transfer than at the Southern Pacific or the Santa Fe sites. In this respect the Southern Pacific site is more convenient than the Santa Fe site.

(9) Distribution and Collection of Mail and Express.—The Plaza site is nearly as good as the Southern Pacific site. The Santa Fe site is farther and less accessible than either.

(10) Operation of Yard and Coach Yard.—The Plaza site is better than the Santa Fe site because of the proximity of the coach yard, notwithstanding the fact that a [fol. 78] through station is possible at the latter site. The Southern Pacific site is the worst as the coach yard is distant a stub station is necessary and the aproach is on a steep grade.

(11) Property Values.—Considering ultimate appreciation and neglecting immediate disturbances, the Plaza plan

is far superior and the Southern Pacific plan is far better than the Santa Fe plan. The ultimate appreciation with the station at the Plaza site and a union freight station at the Santa Fe site is estimated at over $8,000,000. This is of advantage to the city in the restoration of depreciated property values.

(12) Convenient to Hotel, Business, and Shopping Districts.—The Plaza site is slightly less convenient than the Southern Pacific site, which is much superior to the Santa Fe site.

(13) Accessibility by Automobiles.—The Plaza site is superior to the Southern Pacific site from all points except the business district where the inferiority is slight. Both are better than the Santa Fe site.

(14) Locomotive Service and Repair Facilities.—This is partly covered in No. 5. Otherwise the Plaza site is first, the Santa Fe second, and the Southern Pacific third with respect to use of present facilities and construction of new facilities.

(15) Freight Draying.—The Plaza site is best inasmuch as passenger and freight vehicle traffic is separated. The Santa Fe site is worst since both classes would be in the same district.

(16) Confinement of Transportation Facilities to Natural Channel—the Banks of the Los Angeles River.—The departure of the Plaza site is not of great importance be- [fol. 79] cause of location and improvements. The Santa Fe site is slightly better than the Plaza site and much better than the Southern Pacific site.

(17) Release of Lands in Industrial District.—Arranged in order of benefit, the three plans compare as follows: Plaza—Release Southern Pacific station and coach yard sites. Santa Fe—Release Southern Pacific station site; use coach yard for team tracks. Southern Pacific—Release coach yard site.

(18) Segregation of Freight and Passenger Routes.—This is best accomplished by the Southern Pacific plan, but the Plaza plan is not much inferior. The Santa Fe puts both passenger traffic and freight switching along the west bank and is in this way far inferior in this respect.

These and other considerations are discussed in the exhibit.

More thought and study have been given to the selection of a site for a union passenger terminal, because of the clash of contending interests, than to any other feature of the entire transportation investigation. The availability of the various sites was tested against a set of general requirements which it is acknowledged are essential to the location of any union passenger depot. While it is true that there may be varying degrees of importance placed on different requirements, it is also true that a better and fairer judgment of the availability of a particular site can be reached in this manner than by depending alone on the arguments of the party whose interest is immediately affected.

We reach the conclusion from a careful consideration of all the evidence before us that the establishment of a union passenger depot is feasible and desirable, and is necessary [fol. 80] in Los Angeles, and we are satisfied that the so-called Plaza location is superior to other possible locations and that the union passenger station should be located at that site. We come to that conclusion without subscribing on all points to the conclusions reached by our engineers in Commission's Exhibit No. 1 and in the testimony given by witnesses on that point, and without agreeing entirely with all the reasons given by the engineering conference when they, in part, indorse the report of the Commission's engineers, or with the report of the mayor's and city council's advisory committee.

The opposition on the part of the Southern Pacific, Salt Lake, and Pacific Electric Railroads, to the Plaza site, apart from the question of cost, is readily understood. The representatives of these roads have frankly admitted that they are in opposition to any plan that will interfere with the consummation of their own proposal, which provides for a partial union passenger terminal on the present Southern Pacific depot site. It is to be noted, however, that even these railroads are not opposed to terminal unification per se; rather are they in favor of it. They do not desire, however, to depart from their own plans and hold their individual and immediate interests paramount.

The Commission finds as a fact that public necessity and convenience demand a unification of passenger terminal facilities in Los Angeles and an order will be made requiring

the interested carriers to prepare, within a reasonable time, detailed plans and estimates for an adequate union passenger station at the so-called Plaza site. The exact location of the site cannot be prescribed at this time except to the extent that the union passenger station shall be located [fol. 81] in the territory in the city of Los Angeles bounded by Commercial street, North Main street, Redondo street, Alhambra avenue and the Los Angeles River.

We are not prepared, at this time, to make a finding as to the minimum amount of expenditure that should be estimated and provided for in the construction of such a station, and are of the opinion that this matter should be left for subsequent decision. Neither do we believe it wise or necessary to insist that the plans for such a station, with its necessary facilities, should follow exactly and in detail the plans set forth in Commission's Exhibit No. 1. As a result of the engineering conference, and of the last hearings before the Commission, some important and some minor changes were made, or agreed to, in the plans first suggested by our engineers, and it is certain that other modifications and changes will develop with further study. We are also satisfied that a plan can be made that will overcome the difficulties suggested during the last hearings by the railroads and by the representative of the Business Men's Association. The Los Angeles city authorities must, of necessity, have an important part in the design of any definite plan and a modification of the plan in Commission's Exhibit No. 1 may have to come about if it should definitely develop that the city is unwilling to vacate the necessary portions of streets and the Plaza.

The Commission, in reaching its conclusion that the union passenger depot should be located at the Plaza site, assumes that the city will carry out its repeatedly announced intention to further in every possible way the consummation of the general plan which, by resolution, the city authorities have so strongly urged the Commission to promulgate in this proceeding.

It remains to provide for suitable machinery and proce- [fol. 82] dure to accomplish the end sought. As an initial step it will be necessary for the interested carriers to submit for the approval of the Commission detailed plans and estimates of the proposed union passenger terminal. The plans

and estimates made by the carriers should be concurred in, or suggestions for modifications should be made, by the city. The Commission will not desire to approve or modify a plan until the plan fulfills, as nearly as may be, the joint and combined needs and desires of the interested parties. In view of the wide divergence on this subject, by the carriers themselves on the one hand and between the carriers and the city on the other hand, it is not reasonable to expect that an agreement will be reached on a plan or design if the matter is left to the individual action of these parties.

We are of the opinion, therefore, that the carriers should appoint an engineering committee, with a chairman who shall be satisfactory to the carriers, to the city of Los Angeles, and to the Commission. The city of Los Angeles should be also represented on this engineering committee.

Instructions are to be given to this engineering committee to prepare within the time specified by the Commission such plans and estimates as will completely and in good faith meet the requirements for a union passenger station laid down in this opinion and order. In case of disagreement by the engineering committee on any matter properly before the committee, and connected with the design and estimates of the plan, the decision of the chairman of the committee shall govern, with the understanding that each party shall have the right to present to the Commission its views when the plan and estimate is submitted to the Commission for final approval, as provided for in this decision.

It is not our intention that an engineer of the Commission [fol. 83] should be a party to this conference but there can, of course, be no objection to the engineering conference keeping in close touch with the Commission, and the Commission's engineering department, in order that no delay or conflict may result from misunderstanding.

The engineering committee should also handle the preparation of the plans and estimates for the grade crossing eliminations heretofore discussed in this opinion.

[fol. 84] The Commission is aware that such important questions as a division of cost of the proposed union terminal, the method of its financing and construction, provision for its operation, and other important legal, financial, and operating matters must have careful consideration and that conclusions must be reached on such questions. It would

serve no purpose, however, in our opinion, to deal with these matters at this time, and they will be left for further decision after plans and estimates have been submitted and approved.

(d) Electric Railway Transportation

Two electric railways are affected by this proceeding—The Pacific Electric and the Los Angeles Railway.

The Los Angeles Railway operates the street car system (narrow gauge). It is of importanee that arrangements should be possible to give adequate street car service to the proposed union passenger station and no difficulties will be encountered in that respect with the proposed Plaza location. The carrying out of the passenger terminal plan will result in some slight rerouting of car lines, but it is to be noted that, from the standpoint of street railway traffic, a union passenger station at the Plaza site will be favorably located. Commission's Exhibit No. 1 contains the recommendation that, to avoid street car congestion near the site of the Plaza terminal a sub-tunnel under the present Broadway tunnel be constructed. This matter appears to require further study and will be a proper subject to refer to the proposed engineering committee.

The Los Angeles Railway will also, to some extent, be interested in and affected by a number of the grade crossing separations proposed in the general plan.

[fol. 85] Plans affecting the Pacific Electric system and interurban electric rapid transit form an important part of these cases. An appreciation of the importance of the Pacific Electric service may be had when it is stated that, in 1918, approximately 68,000,000 passengers were carried on that system divided about equally between interurban and local passengers and, in 1917, this road carried 65,000,000 passengers, while in the same year the steam roads of the entire State of California carried only 39,000,000.

The Pacific Electric is also an important freight carrier, its importance as a freight road being exceeded by only two California railroads, the Southern Pacific and the Santa Fe. It should be stated in this connection that the Pacific Electric is a subsidiary of the Southern Pacific, and the latter company controls the former through stock ownership. It is apparent that the proper development of this electric

road is of vital importance to the well being of the communities interested in these proceedings.

In Commission's Exhibit No. 1, the Pacific Electric problem is dealt with at some length and recommendations are made for the construction of a subway from the present station at Sixth and Main streets northerly along Main Street to and under the Plaza union station, changing to an elevated railway along Ramirez street, and meeting the present Pacific Electric line at the Aliso street bridge. From here this line would continue as an elevated railway to Brooklyn avenue where the present tracks would be met. It is further recommended in the exhibit that the Pacific Electric continue the present elevated structure at the rear of its Main street station, elevating the Long Beach line to Fourteenth street, with provision in the design for a future connection with the subway in Sixth street. Recommendation dealing with grade separations on Pacific Electric lines have already been mentioned in connection with the discussion of grade crossings.

[fol. 86] A considerable amount of testimony other than that given by the Commission's engineers was introduced relative to the Pacific Electric and the company's president, Mr. Paul Shoup, gave testimony opposing a subway on Main street. He declared in favor of the method of dealing with Pacific Electric traffic proposed in the Southern Pacific-Salt Lake-Pacific Electric plan.

As long ago as 1911, the necessity and desirability of a north and south subway in the congested part of the city, located on Broadway, Spring, or Main streets, and an east and west subway, making a connection between the Pacific Electric Hill and Main street stations, were recognized by Mr. Bion J. Arnold in his report upon the transportation problem in Los Angeles. The Commission's engineers appear to be of the opinion that the construction of a north and south subway on Main street is of greater urgency than an east and west subway. This view is endorsed by the engineering conference. It is apparent, however, that the building of any subway is not an immediate practical possibility and it is urged upon the Commission (and there seems to be no disagreement with that proposition) that the most pressing Pacific Electric traffic problems cannot find their solution in the immediate*ly* construction of subways in the heart of the city and that means must be found

to take care of the traffic congestion on Hill street and on the Hollywood line. The Commission is at this time engaged in a study of the specific Pacific Electric traffic and operating problems, and it may be expected that a more detailed analysis of the matters here discussed will be made in connection with that investigation. We believe, therefore, that a definite order requiring operating changes or new construction from the Pacific Electric, or permitting that company to make material changes, should not be made in this decision.

[fol. 87] (e) Cost Estimates

Cost estimates in considerable detail are included in Commission's Exhibit No. 1. These estimates in that exhibit are of the years 1916 to 1918. The results were objected to by the railroads as not reflecting actual conditions at the time of the later hearings in these proceedings and the Commission asked the engineering conference to check and criticise the estimates and to revise the cost to a later date. This was done and in Commission's Exhibit No. 2 (Report of Engineering Conference, dated August 13, 1920), the estimated costs are as of March, 1920. As might be expected, there is not, however, agreement on estimates of cost of the various plans proposed in Commission's Exhibit No. 1 and their modifications.

The further fact should not be lost sight of that important changes in labor and material costs have occurred since March, 1920, and further important changes may confidently be expected in the future. On the whole, it may be said that the 1916 to 1918 costs were abnormally high and that the engineering conference costs, as of March, 1920, represented the approximate peak. Since then and speaking generally, the estimate totals for the work contemplated in Commission's Exhibits Nos. 1 and 2 will have shown a decline. There is also objection on the part of the Commission's engineers to certain overhead cost estimates and to certain real estate valuations as used by the engineering conference.

In order to comprehend the items included in the general plan discussed in this proceeding and proposed in Commission's Exhibit No. 1, a comparison of the estimates as made by the Commission's engineers, on the basis of

## Table I

Estimated New Money Required for Union Passenger Station at Plaza and Other Improvements Proposed in Commission's Exhibit No. 1, Showing Estimates as Made by Com
on 1916 to 1918 Costs and Estimates as Revised by Engineering Conference as of March, 1920 (Ultimate Plan)

| Est. Sec. | Group | Item | Physical construction (1) | | Acquisition of property: Land | | Acquisition of property: Improvements | | Property damage | |
|---|---|---|---|---|---|---|---|---|---|---|
| | | | R. R. Com. | Est. Com. | R. R. Com. | Est. Com. | R. R. Com. | Est. Com. | R. R. Com. | Est. Com. |
| | 1 | Passenger terminal approaches, etc.: | | | | | | | | |
| CB | | Depression S. P. tracks, Alhambra ave | $71,279 | $164,843 | $87,075 | $87,075 | $7,548 | $13,752 | ..... | ..... |
| CC | | New viaduct, North Main st | 292,226 | 532,436 | ..... | ..... | ..... | ..... | $67,310 | $122,639 |
| CE | | New viaduct, Macy st | 400,070 | 728,928 | 218,411 | 218,411 | 80,469 | 146,615 | 31,951 | 58,215 |
| CF | | New passenger terminal | 4,136,261 | 6,101,485 | 3,480,778 | 3,480,778 | 1,048,194 | 1,909,809 | ..... | ..... |
| CG | | Sub-tunnel under Broadway tunnel | 381,920 | 595,858 | ..... | ..... | ..... | ..... | ..... | ..... |
| | | Totals | $5,281,756 | $8,223,550 | $3,786,264 | $3,786,264 | $1,136,211 | $2,070,176 | $99,261 | $180,854 |
| CA | 2 | Union coach yard | $543,760 | $1,230,698 | $20,857 | $20,857 | $65,093 | $118,599 | ..... | ..... |
| CJ | 4 | Union freight station | $2,394,404 | $5,456,569 | ..... | ..... | $181,538 | $330,762 | ..... | ..... |
| | 5 | Viaducts over Los Angeles River: | | | | | | | | |
| F | | Baker st. approach to N. Broadway bridge | $111,051 | $532,335 | ..... | ..... | ..... | ..... | ..... | ..... |
| G | | Removal North Spring st. bridge | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| H | | New viaduct, Main st | 433,669 | 790,509 | $17,159 | $17,159 | ..... | ..... | $92,056 | $167,726 |
| M | | New viaduct, Macy st | 321,383 | 585,560 | 5,679 | 5,679 | ..... | ..... | 30,495 | 55,562 |
| R | | New viaduct, Fourth st | 773,165 | 1,408,707 | 46,488 | 46,488 | ..... | ..... | 36,632 | 66,744 |
| Q | | New viaduct, First st | 374,559 | 682,446 | ..... | ..... | ..... | ..... | 15,650 | 28,514 |
| T | | New viaduct, Aliso st | 347,785 | 633,664 | ..... | ..... | ..... | ..... | 69,151 | 125,993 |
| U | | New viaduct, Seventh st | 426,275 | 776,673 | ..... | ..... | ..... | ..... | 141,316 | 257,478 |
| CN | | New viaduct, Ninth st | 369,464 | 673,163 | ..... | ..... | ..... | ..... | 45,955 | 83,730 |
| | | Totals | $3,157,551 | $5,753,057 | $69,326 | $69,326 | ..... | ..... | $431,255 | $785,747 |
| | 6 | Depression of, and new, tracks along river: | | | | | | | | |
| D | | Connections east end Humboldt st. bridge | $41,256 | $109,694 | $11,363 | $11,363 | $7,222 | $13,158 | ..... | ..... |
| E | | Connections west end Humboldt st. bridge | 23,479 | 34,089 | ..... | ..... | ..... | ..... | ..... | ..... |
| I | | Depression Alhambra ave., east of river | 45,983 | 110,482 | ..... | ..... | ..... | ..... | ..... | ..... |
| K | | Depression and double tracking S. L. tracks | 271,389 | 1,004,292 | 29,407 | 29,407 | 27,806 | 50,662 | $25,000 | $45,550 |
| N | | Removal Sta. Fe crossings, Macy & Aliso sts | 1,047 | 1,265 | ..... | ..... | ..... | ..... | ..... | ..... |
| W | | Depression Sta. Fe tracks south of Ninth st | 201,272 | 151,904 | ..... | ..... | ..... | ..... | ..... | ..... |
| CH | | Depression Santa Fe tracks, Bdwy. to Aliso | 92,783 | 528,922 | 98,205 | 98,205 | 15,471 | 28,188 | ..... | ..... |
| CL | | Depression Santa Fe tracks, 7th to 9th sts | 46,227 | 85,696 | ..... | ..... | ..... | ..... | ..... | ..... |
| | | Totals | $723,436 | $2,026,344 | $138,975 | $138,975 | $50,499 | $92,008 | $25,000 | $45,550 |
| | 8 | New tracks S. P., east bank of river, north of Humboldt st.: | | | | | | | | |
| B | | New approach, Los Feliz road bridge | $67,272 | $122,570 | ..... | ..... | ..... | ..... | ..... | ..... |
| O | | New tracks, Humboldt to Dayton, east bank | 138,070 | 328,088 | $31,274 | $31,274 | $4,120 | $7,507 | ..... | ..... |
| J | | New connection, S. P. & S. L., Alhambra ave. | 39,895 | 34,531 | 18,741 | 18,741 | 5,866 | 10,688 | ..... | ..... |
| | | Totals | $245,237 | $485,789 | $50,015 | $50,015 | $9,986 | $18,195 | ..... | ..... |
| | 9 | Butte st. trackage and Santa Fe ave. subway: | | | | | | | | |
| K | | Tracks, Butte st., Alameda st. to river | $90,186 | $210,127 | $3,716 | $3,716 | $3,356 | $6,115 | ..... | ..... |
| Y | | New connection, Alameda to Butte sts | 29,712 | 56,827 | 18,604 | 18,604 | 9,457 | 17,231 | ..... | ..... |
| AA | | Santa Fe ave. subway | 37,860 | 82,842 | ..... | ..... | ..... | ..... | ..... | ..... |
| | | Totals | $157,758 | $349,796 | $22,320 | $22,320 | $12,813 | $23,346 | ..... | ..... |
| | 10 | New trackage, river to Hobart & connections: | | | | | | | | |
| Z | | New bridge and wye, east of river | $269,218 | $411,110 | $49,405 | $49,405 | $3,501 | $6,379 | ..... | ..... |
| AC | | Sec. track north present Santa Fe main line | 31,510 | 51,319 | ..... | ..... | ..... | ..... | ..... | ..... |
| AD | | Connection at Hobart, Sta. Fe & Salt Lake | 41,200 | 26,443 | 6,310 | 6,310 | ..... | ..... | ..... | ..... |
| | | Totals | $341,928 | $488,872 | $55,715 | $55,715 | $3,501 | $6,379 | ..... | ..... |
| | 11 | New freight yards, S. P. and Santa Fe: | | | | | | | | |

## Table I

ey Required for Union Passenger Station at Plaza and Other Improvements Proposed in Commission's Exhibit No. 1, Showing Estimates as Made by Commission Engineers Based on 1916 to 1918 Costs and Estimates as Revised by Engineering Conference as of March, 1920 (Ultimate Plan)

| Item | Physical construction (1) | | Acquisition of property: Land | | Acquisition of property: Improvements | | Property damage | | Total | |
|---|---|---|---|---|---|---|---|---|---|---|
| | R. R. Com. | Est. Com. | R. R. Com. | Est. Com. | R. R. Com. | Est. Com. | R. R. Com. | Est. Com. | R. R. Com. | Est. Com. |
| er terminal approaches, etc.: | | | | | | | | | | |
| ssion S. P. tracks, Alhambra ave | $71,279 | $164,843 | $87,075 | $87,075 | $7,548 | $13,752 | ..... | ..... | $165,902 | $265,670 |
| iaduct, North Main st | 292,226 | 532,436 | ..... | ..... | ..... | ..... | $67,310 | $122,639 | 359,536 | 655,075 |
| iaduct, Macy st | 400,070 | 728,928 | 218,411 | 218,411 | 80,469 | 146,615 | 31,951 | 58,215 | 730,901 | 1,152,169 |
| passenger terminal | 4,136,261 | 6,101,485 | 3,480,778 | 3,480,778 | 1,048,194 | 1,909,809 | ..... | ..... | 8,665,233 | 11,492,072 |
| nnel under Broadway tunnel | 381,920 | 595,858 | ..... | ..... | ..... | ..... | ..... | ..... | 381,920 | 695,858 |
| Totals | $5,281,756 | $8,223,550 | $3,786,264 | $3,786,264 | $1,136,211 | $2,070,176 | $99,261 | $180,854 | $10,303,492 | $14,260,844 |
| coach yard | $543,760 | $1,230,698 | $20,857 | $20,857 | $65,093 | $118,599 | ..... | ..... | $629,710 | $1,370,154 |
| reight station | $2,394,404 | $5,456,569 | ..... | ..... | $181,538 | $330,762 | ..... | ..... | $2,575,942 | $5,787,331 |
| over Los Angeles River: | | | | | | | | | | |
| st. approach to N. Broadway bridge | $111,051 | $532,335 | ..... | ..... | ..... | ..... | ..... | ..... | $111,051 | $202,335 |
| al North Spring st. bridge | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... | ..... |
| iaduct, Main st | 433,669 | 790,509 | $17,159 | $17,159 | ..... | ..... | $92,056 | $167,726 | 543,084 | 975,394 |
| iaduct, Macy st | 321,383 | 585,560 | 5,679 | 5,679 | ..... | ..... | 30,495 | 55,562 | 367,557 | 646,801 |
| iaduct, Fourth st | 773,165 | 1,408,707 | 46,488 | 46,488 | ..... | ..... | 36,632 | 66,744 | 856,285 | 1,521,939 |
| iaduct, First st | 374,559 | 682,446 | ..... | ..... | ..... | ..... | 15,650 | 28,514 | 390,209 | 710,960 |
| iaduct, Aliso st | 347,785 | 633,664 | ..... | ..... | ..... | ..... | 69,151 | 125,993 | 416,936 | 759,657 |
| iaduct, Seventh st | 426,275 | 776,673 | ..... | ..... | ..... | ..... | 141,316 | 257,478 | 567,591 | 1,034,451 |
| iaduct, Ninth st | 369,464 | 673,163 | ..... | ..... | ..... | ..... | 45,955 | 83,730 | 415,419 | 756,893 |
| Totals | $3,157,551 | $5,753,057 | $69,326 | $69,326 | ..... | ..... | $431,255 | $785,747 | $3,658,132 | $6,608,130 |
| ion of, and new, tracks along river: | | | | | | | | | | |
| ctions east end Humboldt st. bridge | $41,256 | $109,694 | $11,363 | $11,363 | $7,222 | $13,158 | ..... | ..... | $59,841 | $134,215 |
| ctions west end Humboldt st. bridge | 23,479 | 34,089 | ..... | ..... | ..... | ..... | ..... | ..... | 23,479 | 34,089 |
| ssion Alhambra ave., east of river | 45,983 | 110,482 | ..... | ..... | ..... | ..... | ..... | ..... | 45,983 | 110,482 |
| ssion and double tracking S. L. tracks | 271,389 | 1,004,292 | 29,407 | 29,407 | 27,806 | 50,662 | $25,000 | $45,550 | 353,602 | 1,129,911 |
| val Sta. Fe crossings, Macy & Aliso sts | 1,047 | 1,265 | ..... | ..... | ..... | ..... | ..... | ..... | 1,047 | 1,265 |
| ssion Sta. Fe tracks south of Ninth st | 201,272 | 151,904 | ..... | ..... | ..... | ..... | ..... | ..... | 201,272 | 151,904 |
| ssion Santa Fe tracks, Bdwy. to Aliso | 92,783 | 528,922 | 98,205 | 98,205 | 15,471 | 28,188 | ..... | ..... | 206,459 | 655,315 |
| ssion Santa Fe tracks, 7th to 9th sts | 46,227 | 85,696 | ..... | ..... | ..... | ..... | ..... | ..... | 46,227 | 85,696 |
| Totals | $723,436 | $2,026,344 | $138,975 | $138,975 | $50,499 | $92,008 | $25,000 | $45,550 | $937,010 | $2,302,877 |
| cks S. P., east bank of river, north of oldt st.: | | | | | | | | | | |
| approach, Los Feliz road bridge | $67,272 | $122,570 | ..... | ..... | ..... | ..... | ..... | ..... | $67,272 | $122,570 |
| tracks, Humboldt to Dayton, east bank | 138,070 | 328,088 | $31,274 | $31,274 | $4,120 | $7,507 | ..... | ..... | 173,464 | 367,469 |
| connection, S. P. & S. L., Alhambra ave. | 39,895 | 34,531 | 18,741 | 18,741 | 5,866 | 10,688 | ..... | ..... | 64,502 | 63,960 |
| Totals | $245,237 | $485,789 | $50,015 | $50,015 | $9,986 | $18,195 | ..... | ..... | $305,238 | $553,999 |
| . trackage and Santa Fe ave. subway: | | | | | | | | | | |
| s, Butte st., Alameda st. to river | $90,186 | $210,127 | $3,716 | $3,716 | $3,356 | $6,115 | ..... | ..... | $97,258 | $219,958 |
| connection, Alameda to Butte sts | 29,712 | 56,827 | 18,604 | 18,604 | 9,457 | 17,231 | ..... | ..... | 57,773 | 92,662 |
| Fe ave. subway | 37,860 | 82,842 | ..... | ..... | ..... | ..... | ..... | ..... | 37,860 | 82,842 |
| Totals | $157,758 | $349,796 | $22,320 | $22,320 | $12,813 | $23,346 | ..... | ..... | $192,891 | $395,462 |
| ckage, river to Hobart & connections: | | | | | | | | | | |
| bridge and wye, east of river | $269,218 | $411,110 | $49,405 | $49,405 | $3,501 | $6,379 | ..... | ..... | $322,124 | $466,894 |
| rack north present Santa Fe main line | 31,510 | 51,319 | ..... | ..... | ..... | ..... | ..... | ..... | 31,510 | 51,319 |
| ction at Hobart, Sta. Fe & Salt Lake | 41,200 | 26,443 | 6,310 | 6,310 | ..... | ..... | ..... | ..... | 47,516 | 32,753 |
| Totals | $341,928 | $488,872 | $55,715 | $55,715 | $3,501 | $6,379 | ..... | ..... | $401,144 | $550,966 |
| eight yards, S. P. and Santa Fe: | | | | | | | | | | |
| s, San Fernando road | $1,878,157 | $4,036,017 | ..... | ..... | ..... | ..... | ..... | ..... | $1,878,157 | $4,036,017 |

| | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | ...new bridge and wye, east of river..... | $208,218 | $411,110 | $49,405 | $49,405 | $3,501 | $6,379 | ..... | ..... | $3 |
| A C | | Sec. track north present Santa Fe main line.. | 31,510 | 51,319 | ..... | ..... | ..... | ..... | ..... | ..... | |
| A D | | Connection at Hobart, Sta. Fe & Salt Lake.. | 41,200 | 26,443 | 6,310 | 6,310 | ..... | ..... | ..... | ..... | |
| | | Totals ..... | $341,928 | $488,872 | $55,715 | $55,715 | $3,501 | $6,379 | ..... | ..... | $4 |
| | 11 | New freight yards, S. P. and Santa Fe: | | | | | | | | | |
| A | | New S. P. yards, San Fernando road..... | $1,878,157 | $1,036,017 | ..... | ..... | ..... | ..... | ..... | ..... | $1,8 |
| O | | New Santa Fe yards, east of Hobart..... | 957,030 | 1,203,376 | ..... | ..... | ..... | ..... | ..... | ..... | $ |
| | | Totals ..... | $2,835,187 | $5,239,393 | ..... | ..... | ..... | ..... | ..... | ..... | $2,8 |
| | 12 | New freight terminal, Salt Lake. Nothing. | | | | | | | | | |
| P | 13 | New connections, relief Alameda st. switching.. | $4,436 | $6,012 | ..... | ..... | ..... | ..... | ..... | ..... | |
| | 14 | Team yards: | | | | | | | | | |
| A O | | New yard, Salt Lake terminal, Hunter st..... | $395,537 | $440,006 | *$91,481 | *$91,481 | ..... | ..... | ..... | ..... | $ |
| A T | | New yard, Los Angeles Market property..... | 176,694 | 321,936 | ..... | ..... | ..... | ..... | ..... | ..... | |
| C D | | New yard, S. P. freight station site..... | 50,155 | 220,507 | ..... | ..... | $98,116 | $178,767 | ..... | ..... | |
| | | Totals ..... | $622,386 | $982,449 | *$91,481 | *$91,481 | $98,116 | $178,767 | ..... | ..... | $ |
| S | 16 | Release S. P. station site..... | *$96,840 | *$176,442 | *1,719,918 | *1,719,918 | 573,104 | 1,044,196 | ..... | ..... | *1,1 |
| V | 17 | Release S. P. coach yard site..... | *$44,964 | *$81,924 | *$1,651,262 | *$1,651,262 | $121,844 | $222,000 | ..... | ..... | *$1,3 |
| | | Electric roads— | | | | | | | | | |
| | 20 | New line P. E. station to Brooklyn ave.-14th st. | | | | | | | | | |
| C K | | Removal and reconstruction P. E. L. A. and First sts..... | $39,074 | $63,070 | ..... | ..... | ..... | ..... | ..... | ..... | |
| C M | | Main st. subway..... | 3,757,251 | 6,388,752 | $97,405 | $97,405 | $26,160 | $47,664 | ..... | ..... | 3,4 |
| D R | | Double tracking P. E. elevated..... | 1,092,114 | 1,780,019 | 482,030 | 482,030 | 97,446 | 178,547 | ..... | ..... | 1,2 |
| | | Totals ..... | $4,888,439 | $8,231,841 | $579,435 | $579,435 | $123,606 | $226,211 | ..... | ..... | $5,0 |
| | 21 | New surface lines to proposed Union station.... | Nothing. | | | | | | | | |
| | 22 | Freight tracks: | | | | | | | | | |
| L | | Macy st. and river to Echandia yard..... | $110,146 | $171,911 | $31,246 | $31,246 | ..... | ..... | ..... | ..... | $ |
| A B | | Raise transfer track, Santa Fe and Butte st.. | 8,694 | 69,908 | ..... | ..... | ..... | ..... | ..... | ..... | |
| | | Totals ..... | $118,840 | $241,819 | $31,246 | $31,246 | ..... | ..... | ..... | ..... | $ |
| | | Grand totals..... | $21,173,314 | $38,457,823 | $1,291,492 | $1,291,492 | $2,376,311 | $4,330,638 | $555,516 | $1,012,151 | $25,0 |

*Credits.

(1) Est. Com.=Estimate Committee of Engineering Conference

NOTE.—The difference between the grand total "ultimate expenditure for all recommendations" of $32,233,445, mentioned on page 11 of this decision, and the grand total of $2 table, is accounted for by the exclusion from Table I of two items:

1. Reconstruction, joint use, and grade crossing elimination of Santa Fe and Salt Lake lines between Los Angeles and Pasadena.....
2. Pairing of Southern Pacific-Salt Lake tracks between Los Angeles and Colton.....

Total .....

| | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| ...ridge and wye, east of river | $288,218 | $411,110 | $49,405 | $49,405 | $3,501 | $6,379 | ..... | ..... | $322,124 | $466,894 |
| ...rack north present Santa Fe main line | 31,510 | 51,319 | ..... | ..... | ..... | ..... | ..... | ..... | 31,510 | 51,319 |
| ...ection at Hobart, Sta. Fe & Salt Lake | 41,200 | 26,443 | 6,310 | 6,310 | ..... | ..... | ..... | ..... | 47,516 | 32,753 |
| Totals | $341,928 | $488,872 | $55,715 | $55,715 | $3,501 | $6,379 | ..... | ..... | $401,144 | $550,966 |
| ...eight yards, S. P. and Santa Fe: | | | | | | | | | | |
| ...S. P. yards, San Fernando road | $1,878,157 | $1,036,017 | ..... | ..... | ..... | ..... | ..... | ..... | $1,878,157 | $4,036,017 |
| ...Santa Fe yards, east of Hobart | 957,030 | 1,203,376 | ..... | ..... | ..... | ..... | ..... | ..... | 957,030 | 1,203,376 |
| Totals | $2,835,187 | $5,239,393 | ..... | ..... | ..... | ..... | ..... | ..... | $2,835,187 | $5,239,393 |
| ...eight terminal, Salt Lake. Nothing. | | | | | | | | | | |
| ...nnections, relief Alameda st. switching | $4,436 | $6,012 | ..... | ..... | ..... | ..... | ..... | ..... | $4,436 | $6,012 |
| ...ards: | | | | | | | | | | |
| ...yard, Salt Lake terminal, Hunter st | $395,537 | $440,006 | *$91,481 | *$91,481 | ..... | ..... | ..... | ..... | $304,056 | $348,525 |
| ...yard, Los Angeles Market property | 176,694 | 321,936 | ..... | ..... | ..... | ..... | ..... | ..... | 176,694 | 321,936 |
| ...yard, S. P. freight station site | 50,155 | 220,507 | ..... | ..... | $98,116 | $178,767 | ..... | ..... | 148,271 | 399,274 |
| Totals | $622,386 | $982,449 | *$91,481 | *$91,481 | $98,116 | $178,767 | ..... | ..... | $639,021 | $1,069,735 |
| ...S. P. station site | *$96,840 | *$176,442 | *1,719,918 | *1,719,918 | 573,104 | 1,044,196 | ..... | ..... | *1,243,654 | *852,165 |
| ...S. P. coach yard site | *$44,964 | *$81,924 | *$1,651,262 | *$1,651,262 | $121,844 | $222,000 | ..... | ..... | *$1,574,382 | *$1,511,186 |
| ...lectric roads— | | | | | | | | | | |
| ...e P. E. station to Brooklyn ave.-14th st. | | | | | | | | | | |
| ...val and reconstruction P. E. L. A. and | | | | | | | | | | |
| ...st sts | $39,074 | $63,070 | ..... | ..... | ..... | ..... | ..... | ..... | $39,074 | $63,070 |
| ...st. subway | 3,757,251 | 6,388,752 | $97,405 | $97,405 | $26,160 | $47,664 | ..... | ..... | 3,880,816 | 6,533,821 |
| ...e tracking P. E. elevated | 1,092,114 | 1,780,019 | 482,030 | 482,030 | 97,446 | 178,547 | ..... | ..... | 1,671,590 | 2,440,596 |
| Totals | $4,888,439 | $8,231,841 | $579,435 | $579,435 | $123,606 | $226,211 | ..... | ..... | $5,591,480 | $9,037,487 |
| ...face lines to proposed Union station | Nothing. | | | | | | | | | |
| ...tracks: | | | | | | | | | | |
| ...st. and river to Echandia yard | $110,146 | $171,911 | $31,246 | $31,246 | ..... | ..... | ..... | ..... | $141,392 | $203,157 |
| ...transfer track, Santa Fe and Butte st | 8,694 | 69,908 | ..... | ..... | ..... | ..... | ..... | ..... | 8,694 | 69,908 |
| Totals | $118,840 | $241,819 | $31,246 | $31,246 | ..... | ..... | ..... | ..... | $150,086 | $273,065 |
| Grand totals | $21,173,314 | $38,457,823 | $1,291,492 | $1,291,492 | $2,376,311 | $4,330,638 | $555,516 | $1,012,151 | $25,396,633 | $45,092,104 |

(1) Est. Com.=Estimate Committee of Engineering Conference.

...erence between the grand total "ultimate expenditure for all recommendations" of $32,233,445, mentioned on page 11 of this decision, and the grand total of $25,396,633 given in this ...or by the exclusion from Table I of two items:

| | |
|---|---|
| ...n. joint use, and grade crossing elimination of Santa Fe and Salt Lake lines between Los Angeles and Pasadena | $6,700,000 |
| ...uthern Pacific-Salt Lake tracks between Los Angeles and Colton | 136,812 |
| ... | $6,836,812 |

prices of 1916 to 1918, and as revised by the engineering conference on the basis of prices of March, 1920, is shown in the following Table No. I. It should be remembered that Table I provides for what is termed the "ultimate plan". The table is included in this decision, not for the purpose of showing what would appear to the Commission to be estimates of sufficient exactness to base thereon a division of cost but merely to give an indication of the scope of the proposed development.

(Here follows Table I, side folio 88)

[fol. 89] The construction contemplated in Table I will be spread over a period of probably not less than ten years and the work will of necessity have to be done in successive steps. The first step provided for in this order, and extending over a period of probably five years, embraces, it will be noted, a beginning of the most important grade crossing separations, a beginning in the establishment of a union passenger terminal with the accompanying relief of Alameda street, and certain other measures making for greater simplicity and economy in railroad operation. The cost of this first step will, of course, be much less than the total estimate. The approximate cost figure will be known after the plans of the engineering committee have been filed with the Commission.

It must be remembered that the present passenger stations of the Salt Lake and of the Santa Fe are acknowledged by these roads to be inadequate and unsatisfactory and, further, that large expenditures are necessary and now contemplated by the three steam railroads and by the Pacific Electric in meeting their urgent passenger and freight requirements. The Southern Pacific-Salt Lake-Pacific Electric plan, according to Southern Pacific-Salt Lake Exhibit No. 27, contemplates the expenditure of approximately seventeen million dollars for a partial and incomplete development. It cannot be said, in view of these facts, that an unreasonably large immediate expenditure is contemplated by the Commission or that we are not giving consideration to the important factor of cost in making this order.

[fol. 90] Care must be taken in making comparison between different plans and estimates that the comparison

is not between altogether unlike things. This difficulty repeatedly arose during these proceedings. The estimated cost of a partial plan manifestly cannot fairly be compared with the estimated cost of a comprehensive plan. Again, the cost of a plan to take care of present needs only cannot fairly be compared with the cost of a plan intended to provide for the present as well as the future. Again, a plan considering the requirements of several of the carriers only cannot be compared with a program designed to take care of all of the carriers as well as of the city.

When capital costs are compared, it is also necessary not to lose sight of comparative operating costs, and of operating costs not only to the railroads, but also to the users of transportation in passenger and freight traffic, and to the community.

We repeat, therefore, that it is not practicable, at this time, to deal extensively with the matter of cost and division of expenditure and that this is one of the features that should be reserved for a subsequent decision.

(f) Associated Matters

The present decision will dispose of Case No. 938 where, in Decision No. 3290, dated April 27, 1916, the Commission made its order directing the installation of a standard interlocking plant at Aliso street and Los Angeles River. According to that order plans were to be submitted and the plant placed in operation within nine months. On July 28, 1916, the effective date of Decision No. 3290 was extended and the matter has since been held in abeyance. A separation of grades for the crossings of the Pacific Electric and the main line of the Salt Lake and the river tracks of the Santa Fe, and the removal of the crossing of the present main line Santa Fe tracks, does away with [fol. 91] the necessity for this interlocking plan and this case may, therefore, be dismissed. An order will be issued by the Commission to that effect.

In Application No. 2962, the Industrial Terminal Railway Company asks permission to issue stock for the purpose of acquisition of rights of way for a switching and terminal railroad approximately two miles in length, commencing on Alameda street north of Aliso street and running in an easterly and nortwesterly direction across Ramirez street, Macy street, Lyon street and crossing the

tracks of the Santa Fe, across the Los Angeles River and across the tracks of the Salt Lake, terminating on the south side of Alhambra avenue east of the Los Angeles River. The present decision makes the construction of such a railroad an impossibility and we believe that this application should, for that reason, be dismissed without prejudice. It is our understanding that such a dismissal is satisfactory to the applicants.

In Case No. 974, the City of Pasadena is complainant and the Pacific Electric Railway Company, the Southern Pacific Company, Atchison, Topeka and Santa Fe Railway Company, the San Pedro, Los Angeles and Salt Lake Railroad Company, and the city of Los Angeles are defendants.

In this complaint the city of Pasadena alleges that certain grade crossings maintained by defendants are dangerous and should be eliminated and asks further that the Commission's order in Case No. 938 should not be carried out.

The first is the crossing of Huntington drive and the Pacific Electric, about one-third mile northeast of North Broadway and Mission road junction in the city of Los Angeles, where four Pacific Electric Railway tracks are crossed at grade. In the complaint, and in Exhibit "B" attached to the complaint, this crossing is referred to as the Mission road crossing but since in Commission's Exhibit No. 1 the crossing of the Southern Pacific tracks in [fol. 92] Alhambra avenue with Mission road is referred to as the Mission road crossing, the crossing complained of in this case will be referred to as the Huntington drive crossing. It should be here noted that the Pacific Electric Railway Company and the city of Los Angeles are the only defendants having an interest in this crossing.

As noted in Commission's Exhibit No. 1, subsequent to the filing of this formal complaint, an agreement was reached between the city of Los Angeles and the Pacific Electric Railway whereby, through the construction of a new road and the relocation of a bridge, approximately all of the present traffic over this crossing would be diverted. It was proposed, therefore, that this crossing be excluded from the general investigtion. This was done (Trans., p. 132).

On August 7, 1917, the agreement referred to was filed with the commission, it becoming city of Los Angeles Ex-

hibit No. 2 in the consolidated proceeding. No grade crossings are to be opened or closed under this agreement and the commission is not legally concerned. We may, however, take cognizance of the fact that the agreement has been carried out and the road constructed and approximately all of the traffic diverted from the crossing. No reason exists, therefore, for further consideration of this part of the complaint of the city of Pasadena.

The city of Pasadena also alleges that the grade crossings of the Pacific Electric tracks in Aliso street and the Santa Fe and Salt Lake tracks on both sides of the Los Angeles River are improper, inadequate and insufficient for the reasonable protection of the public traveling on the Pacific Electric cars and asks that these crossings be eliminated. The complaint further alleges that the order made by the Commission on April 27, 1916, in Case No. 938 for the construction of a standard interlocking plan at this crossing should not be enforced for the reason that its installation would not obviate the alleged delay at this crossing.

[fol. 93] On July 28, 1916, thirteen days subsequent to the filing of the complaint in Case No. 974, the Commission made a decision extending until further order, the effective date of its order in Case No. 938 and the matter has since been held in abeyance pending a decision in this proceeding.

We have already stated that an order will be issued separating the grades of the Pacific Electric and the Santa Fe and Salt Lake at Aliso street and Los Angeles River and if this is done it will automatically dispose of this part of the complaint in Case No. 974. Since all of the matters complained of by the city of Pasadena have been disposed of an order of dismissal without prejudice should be entered in Case No. 974. This will be done.

In Case No. 980, the city of Alhambra, in Case No. 981, the city of San Gabriel and, in Case No. 983, the city of South Pasadena make complaints almost identical with that of the city of Pasadena in Case No. 974.

For the reasons set forth above, these complaints should also be dismissed.

## Summary

The conclusions reached by the Commission, after a thorough and careful investigation as indicated in this opinion may be summarized as follows:

1. Consideration of safety, public necessity and convenience, as also of operating economy and efficiency, requires the adoption of a comprehensive plan of transportation development in the territory under consideration in this proceeding, including in such a plan provision for gradual elimination of all important grade crossings on the Southern Pacific, Santa Fe, Salt Lake, and Pacific Electric, a unification of the steam railroad passenger facilities, and the construction of a union passenger station, the further development of freight facilities in accordance with principles [fol. 94] insuring the lowest cost of service to both railroads and shippers, and the development of electric interurban rapid transit doing away with present congestion and delay and through means of probable future subways in the congested portion of the city. The conclusions reached and the general recommendations made in Commission's Exhibits Nos. 1 and 2 in this proceeding may well serve as a guide to such development.

2. The general ultimate development plan, to the extent that it is advisable and possible to lay down specifications at this time, is indicated in its construction items in Table I in this opinion. This plan, of necessity, will be subject to modifications depending on changes in present conditions.

3. The accomplishment of the plan will have to be undertaken in successive steps, the character and extent to each step to be determined by the transportation needs of the community and the carriers, and by the financial condition of the parties.

4. The first step is indicated in this decision and it is estimated that the work contemplated can be completed in five years.

5. The first construction and other work to be undertaken towards the accomplishment of the first step should be as follows:

(a) Grades should be separated at Macy, Aliso and Seventh streets for reasons indicated and in the manner previously described in this decision.

(b) Relating to freight traffic, the interests of the city and of industrial development require the withholding by the city authorities of future permits for industrial tracks

longitudinally in streets; the confining of longitudinal tracks now in the streets to industrial use only and the re-[fol. 95] moval of such tracks as soon as access to the industries served can otherwise be obtained. All spur tracks should be served from the main lines on the river banks and future spur tracks should be built in a general easterly and westerly direction from the river and not across east and west streets, unless by such construction the crossing of more important north and south streets is avoided. The establishment of team yards along the east side of Alameda street is desirable in the interests of both shippers and the railroads.

(c) A union passenger station should be established and built at the Plaza site, as that site and the requirements for such a station are previously described in this decision. The construction of a union passenger depot, with its necessary facilities and the resulting changes in the Los Angeles transportation system will, in itself, because of railroad operating and other necessities, be an item of work that must be completed in successive steps and spread over a considerable period of time. Arrangements to that end will have to be worked out by a competent engineering committee representing all the parties, under the chairmanship of a competent, impartial engineer, and under rules and instructions approved or laid down by this Commission.

6. With reference to the Pacific Electric interurban and local service, definite findings of fact relating to the first step in the ultimate plan, in so far as that company is a party to these proceedings, should be held in abeyance until the investigation now being made by the Commission into the affairs of that company is completed. It is a fact, however, that the Pacific Electric's most urgent service and traffic problems dealing with the Hill street and the Hollywood situations are not affected by the present proceeding, and nothing contained in this decision will prevent or need delay a partial or complete solution of these difficulties.

[fol. 96] 7. Both the Pacific Electric and the Los Angeles Railway will have to make provision for adequate local street railway service to and from the union passenger station.

8. Other matters at issue in this proceeding will be decided in accordance with the foregoing findings of fact and opinion.

## Order

Complaints having been filed by the Municipal League, Central Development Association, Civic Center Association, and the cities of Pasadena, Alhambra, San Gabriel and South Pasadena, and an application filed by Southern Pacific Railroad Company et al., and all of these complaints and said application having been consolidated in this proceeding, and an exhaustive investigation into all of the matters connected therewith having been made by the Commission, public hearings having been held and the matters submitted, the Commission now makes its findings of fact as follows:

1. That the existing grade crossings of the Southern Pacific Company's tracks on Alameda street, at College street, North Main street, Macy street, Aliso street, Commercial street, Jackson street, East First street, East Second street, East Third street, East Fourth Street, East Sixth street, Industrial street, East Seventh street, East Eighth street, East Ninth street, East Fourteenth street and East Fifteenth street, in the city of Los Angeles, are unsafe, and the continued use thereof, as a main line for the movement of trains of the said carrier, endangers the employees of the carrier and the public generally; that public interest and safety require that such dangerous conditions at said crossings be eliminated by the erection and use of a new structure or structures, to wit, a union pas- [fol. 97] senger station and buildings incidental thereto located as hereinafter designated, and by the making of additions to, extensions, improvements and changes in the existing railroad facilities of said Southern Pacific Company reasonably necessary and incidental to the use of said union passenger station.

2. That a new structure or structures, to wit, a union passenger station and buildings incidental thereto should be erected by the defendants, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, the Los Angeles and Salt Lake Railroad Company and Pacific Electric Railway Company, to promote the security and

convenience of their employees and of the public and to secure adequate service and facilities for the performance of said defendants, and each of them of their public utility functions in the State of California; and in connection therewith additions, extensions, improvements and changes in the existing facilities of said defendants ought reasonably to be made in accordance with the general recommendations and conclusions set forth in the foregoing opinion.

3. That the location and site of the union passenger station herein referred to best suited to promote public convenience and to secure adequate service and facilities, is within that portion of the city of Los Angeles bounded by Commercial street, North Main street, Redondo street, Alhambra avenue and the Los Angeles River.

4. That certain existing grade crossing adjacent to the Los Angeles River in the city of Los Angeles, to wit, the crossing of Macy street, a public street in the city of Los Angeles, and of the tracks of the Los Angeles Railway Corporation thereon by the tracks of The Atchison, Topeka and Santa Fe Railway Company and of the Los Angeles [fol. 98] and Salt Lake Railroad Company; the crossing of Aliso street, a public street in the city of Los Angeles and of the tracks of the Pacific Electric Railway Company thereon, by the tracks of The Atchison, Topeka and Santa Fe Railway Company and of the Los Angeles and Salt Lake Railroad Company, and the crossing of Seventh street, a public street in the city of Los Angeles, and of the tracks of the Los Angeles Railway Corporation thereon, by the tracks of The Atchison, Topeka and Santa Fe Railway Company, and of the Los Angeles and Salt Lake Railroad Company are unsafe, and the continued use thereof endangers the employees of said carriers and the public generally; that a separation of grades at said crossing is practicable and should be made.

Basing its order upon said findings of fact and the further findings and statements of fact contained in the opinion preceding this order,

It is hereby ordered—

1. That said defendants, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, Los Angeles and Salt Lake Railroad Company and Pacific Elec-

tric Railway Company, do make and construct such additions, extensions, improvements to, and changes in, their railroad facilities in the city of Los Angeles, and to erect a union passenger station and buildings incidental thereto in said city of Los Angeles; and perform such work and make and construct the necessary fills, cuts, viaducts and other works and structures necessary for a separation of grades at the crossings enumerated in paragraph 4 of the findings of fact preceding this order, all in the manner and within the time hereinafter specified in this order, and such other orders as this Commission may hereafter make, supplementary thereto.

[fol. 99] 2. The site of the union passenger station herein referred to shall be within that portion of the city of Los Angeles bounded by Commercial street, North Main street, Redondo street, Alhambra avenue and the Los Angeles River. The specific location of said station within said area will be hereafter fixed and designed, pursuant to final plans to be prepared therefor, as hereinafter provided.

3. That said defendants, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, Los Angeles and Salt Lake Railroad Company and Pacific Electric Railway Company, and each of them, shall cause to be made and filed with this Commission complete plans, specifications and estimates for such additions, extensions, improvements and changes in facilities and such new structure or structures, separation of grades and other work, as hereinabove referred to, as follows:

(a) Relating to Grade-crossing Elimination

There shall be filed within sixty days from the date of this order a general plan or plans providing for grade separations at Macy, Aliso and Seventh streets, in conformity with the specifications, contained in the preceding opinion; also, profile or profiles, and detail drawings of each viaduct provided herein, together with estimate of cost of construction for each viaduct and for incidental expenditures and for damages; such plans, profiles, drawings and estimates to be prepared as hereinafter provided for.

(b) Relating to a Union Passenger Station

There shall be filed within six months from the date of this order a general plan, or plans, with the necessary pro-

file, or profiles, and general and detail drawings of a passenger union station located on the Plaza site, as described in the preceding opinion and findings of fact, together with all necessary facilities and changes in existing facilities; also estimates of cost of construction of the union passenger depot, together with its necessary facilities and changes in [fol. 100] existing facilities, and estimates of damages and of salvage; also, description and plans of the necessary temporary operating arrangements during the period of the transition pending the completion of new union passenger terminal facilities. All plans, profiles, drawings and estimates shall be prepared as hereinafter provided for.

The filing by said defendants jointly of such complete plans, specifications and estimates shall be deemed a compliance with this order in this particular.

4. Said defendants, and each of them, shall, within thirty (30) days from the date of this order, appoint their respective representatives—of whom there shall not be more than two (2) for each defendant—upon a joint engineering committee, which committee shall be charged with the preparation of complete plans, specifications and estimates, hereinbefore referred to. Said defendants shall also, within thirty (30) days from the date of this order, select and, subject to the approval of this Commission, appoint a disinterested engineer as chairman of said engineering committee. If no such appointment be made within the time specified herein, the Commission will, itself, select and appoint the chairman of the engineering committee. The city of Los Angeles shall be entitled to be represented upon the said engineering committee in the same manner and upon the same terms and conditions as each of said defendants.

5. The engineering committee shall prepare all plans, specifications, profiles, designs and estimates in accordance with the directions laid down in this decision, and with such further provisions as may be issued from time to time by this commission. In case of any disagreement by said committee on any matter properly before it, the decision of the chairman thereon shall be final; subject, however, to the ultimate approval of the Commission. Each party shall [fol. 101] have the right to present to the Commission its

individual views when the plans and estimates are submitted to the Commission for final approval.

6. The expense of all additions, extensions, improvements or changes in facilities and new structure or structures and other work herein ordered—other than that relating to the separation of grades, to be hereafter specifically provided for, but including the preparation of complete plans, specifications and estimates by the engineering committee—shall be at the joint cost of said defendants upon such terms, as to the apportionment and division, as they may, within a reasonable time, agree upon, which time is hereby fixed at thirty (30) days from and after the date of this order for the apportionment of cost of preparation of complete plans, specifications and estimates, and six (6) months from and after the date of this order for the apportionment of cost of all other work; and in the event of their failure to so agree, then upon such terms and in such proportions and in the manner in which the commission may, after further hearing, fix by supplemental order; provided, however, that all compensation for any representatives of the city of Los Angeles on the engineering committee shall be paid by said city.

7. Within twenty (20) days from the effective date of this order, the railroads shall file with the Commission a preliminary estimate of cost of preparing plans, specifications and estimates. After the appointment of the engineering committee, that committee shall file with the Commission weekly reports, in the form prescribed by the Commission, showing the progress of the work and the character and distribution of the work done. The engineering committee shall also keep account of its expenditures and shall file monthly reports of all expenditures with the carriers and with this Commission.

[fol. 102] It is further ordered, that the complaint of the city of Pasadena against the Pacific Electric Railway Company, the Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, the Los Angeles and Salt Lake Railroad Company, and the city of Los Angeles, Case No. 974, which case is consolidated with this proceeding, relating to the grade crossing of the Pacific Electric tracks and Huntington drive and to the grade crossing of the Pa-

cific Electric tracks in Aliso street and the Santa Fe and Salt Lake tracks on both sides of the Los Angeles River be and the same hereby is dismissed without prejudice, for the reasons heretofore stated in this decision.

It is further ordered, that the complaints of the cities of Alhambra, San Gabriel and South Pasadena, in Cases Nos. 980, 981 and 983, all of which cases are consolidated with this proceeding and which complaints are identical with the complaint of the city of Pasadena in Case No. 974, hereinbefore referred to, be and hereby are dismissed for reasons controlling in Case No. 974, as hereinbefore indicated in this decision.

The effective date of this order is hereby fixed and designated as the twentieth day of May, 1921; and

It is hereby further ordered, that wherever in this order a time is fixed for the doing of any act or the compliance with any term or condition of this order, such time shall be computed from said effective date.

The Commission reserves the right to make such further order or orders in these proceedings and relating to the construction, operation, modification and abandonment of facilities, to costs and division of costs, and to all other matters relating thereto, as public safety, necessity and convenience may require, and as, in the opinion of the Commission, may be just and reasonable.

Dated at San Francisco, California, this twenty-sixth day of April, 1921.

A true copy.

H. G. Matthewson, Asst. Sec. R. R. Comm. of Calif.

[fol. 103] Appendix "A"

List of Exhibits in Case No. 970 et seq. Attached to Decision No. 8901

Filed by the Business Stability Association

| Date filed | Exhibit No. | Subject |
|---|---|---|
| 8-22 and 23-17. | 1 | Plaza terminal plan. |

Filed by The California Railroad Commission

| Date filed | Exhibit No. | Subject |
|---|---|---|
| 2-17-20 ..... | 1 | Railroad grade crossing and terminal investigation report by Engineering Department, Richard Sachse. |

| Date filed | Exhibit No. | Subject |
|---|---|---|
| 8-16-20 | 2 | Report of Engineering Conference on Los Angeles grade crossing and terminal investigation, August 13, 1920. |

Filed by Central Development Association

| | | |
|---|---|---|
| 6-24-17 | 1 | Large map of Plaza plan. |
| 6-24-17 | 2 | Large map of Plaza plan. |
| 6-26-17 | 3 | Plan of smaller proposed Plaza terminal. |
| 8-22 and 23-17 | 4 | Track layout of proposed Plaza terminal. |
| 11-21-17 | 5 | Arrangement of terminal tracks, proposed Plaza plan. |
| 11-21-17 | 6 | Profile of North Main street to west bank of L. A. River. |
| 11-21-17 | 7 | Section through Plaza terminal with double arch. |
| 11-21-17 | 8 | Section through Plaza terminal with single arch. |

[fol. 104]

| | | |
|---|---|---|
| 11-21-17 | 9 | Front elevation of Plaza terminal. |
| 11-21-17 | 10 | Small map showing main tracks of 4 railroads and approaches. |
| 11-21-17 | 11 | Floor plan of terminal. |
| 11-21-17 | 12 | Plan at Alameda street level of terminal. |
| 11-21-17 | 13 | Diagram showing routes on yellow car lines serving Plaza and Fifth street station without change of cars. |
| 11-22-17 | 14 | Tabulation. Cost of Plaza project; cost of S. P.-S. L.-P. E. project and unit prices. |
| 12-11-17 | 15A | Sketch map of S. P. station at Arcade site. |
| 12-11-17 | 15B | Sketch map of Salt Lake coach track. |
| 12-11-17 | 15C | Sketch map of Santa Fe's coach track. |

| Date filed | Exhibit No. | Subject |
|---|---|---|
| 12-11-17 | 15D | Sketch map of Santa Fe station grounds. |
| 12-11-17 | 15E | Sketch map of S. P. yards and shop grounds at Alhambra street. |
| 12-11-17 | 16 | Cost estimate of proposed Plaza terminal coach yards. |
| 12-11-17 | 17 | Detail of Hawgood's cost estimate shown in Exhibit No. 14. |
| 12-11-17 | 18 | Large map showing Storrow's revised terminal layout. |
| 12-11-17 | 19 | Map showing enlarged detail Plaza terminal layout. |
| [fol. 105] | | |
| 12-12-17 | 20 | Blue print showing plans for Plaza station building, drawn by Curlett, to which blue print is attached memorandum of costs. |
| | | **Filed by City of Los Angeles** |
| 6-26-17 | 1 | Profile of Los Angeles River bed. |
| 6-26-17 | 2 | Copy of contract between City of L. A. and P. E. Ry. Co. covering new road to divert traffic from Huntington drive crossing of P. E. |
| 6-26-17 | 3 | Map showing trackage and industrial spurs. |
| | | **Filed by The City Planning Association** |
| 8-22 and 23-17 | 1 | Diagram of rapid transit lines—10-22-14. |
| 8-22 and 23-17 | 2 | Satelite Map—Los Angeles district. |
| 8-22 and 23-17 | 3 | Diagram of interurban and steam railroads. |
| 8-17-20 | 4 | Diagram of transportation. |
| | | **Filed by Southern Pacific and Salt Lake Railroad Companies** |
| 6-24-17 | 1 | Map showing S. P.-S. L. plan. |
| 6-26-17 | 2 | Profile of S. P.-S. L. plan—Pigeon farm to Hollenbeck Ave. |
| 6-26-17 | 3 | Profile of S. P.-S. L. plan—L. A. River to Arcade depot. |

| Date filed | Exhibit No. | Subject |
|---|---|---|
| [fol. 106] | | |
| 6-26-17 | 4 | Large map of proposed S. P.-S. L. passenger terminal. |
| 8-22 and 23-17. | 5 | Map showing lands in Central Development Association's depot plan. |
| 8-22 and 23-17. | 6 | Map showing ownerships of lands in Central Development Association's depot plan. |
| 8-22 and 23-17. | 7 | Sketch of track layout in Central Development Association's depot plan. |
| 8-22 and 23-17. | 8 | Plans of S. P. Arcade station—"A" to "L" inclusive. |
| 8-22 and 23-17. | 9 | Plan of S. P. trackage, Macy to Sixth streets. |
| 8-22 and 23-17. | 10 | Profile of North Main street. |
| 8-22 and 23-17. | 11 | Profile of Macy street. |
| 8-22 and 23-17. | 12 | Profile of Aliso street. |
| 8-22 and 23-17. | 13 | Profile of Aliso and Anderson streets. |
| 8-22 and 23-17. | 13A. | Profile of Aliso street. N. M. 861. |
| 8-22 and 23-17. | 14 | Profile of Fourth street. |
| 8-22 and 23-17. | 15 | Profile of Seventh street. |
| 8-22 and 23-17. | 16 | Profile of Ninth street. |
| 8-22 and 23-17. | 17 | "Official Transportation and City Map of Los Angeles." |
| 8-22 and 23-17. | 18 | Photograph of proposed grade crossing elimination at Sixth and Alameda streets. |
| 11-20-17 | 19 | Plan showing Seventh street separation of grades. |
| 11-21-17 | 20 | Letter of C. W. Durbrow to President Thelen, dated November 16, 1917, with 4 enclosures headed respectively "Plaza Plan; Exchange of Passenger Facilities; New Money to be spent by Southern Pacific Company; and New Money to be spent by Pacific Electric Railway Company and Salt Lake Railroad." |
| [fol. 107] | | |

| Date filed | Exhibit No. | Subject |
|---|---|---|
| 11-21-17 | 21 | Titcomb's detailed estimate of Southern Pacific-Salt Lake plans (29 sheets). |
| 11-21-17 | 22 | Titcomb's estimate of cost of Barnard plan. |
| 11-22-17 | 23 | Salt Lake Company's first mortgage dated July 1, 1911, to Guaranty Trust Company of New York. |
| 12-11-17 | 24 | Profile from near Sixth street to L. A. River. |
| 12-11-17 | 25 | Estimate details of grade separation at Los Angeles. |
| 8-18-20 | 26 | Map of present S. P. station. |
| 8-18-20 | 27 | Comparative statement showing cost of complete grade crossing elimination between S. P.-S. L. plan and the Plaza plan. |
| 8-18-20 | 28 | Estimate of cost of grade crossing elimination along banks of Los Angeles River. |
| 8-18-20 | 29 | Blue Print—Proposed joint use of S. P. station by L. A. and S. L. Ry. |
| 8-18-20 | 30 | Chart showing train operation at present S. P. station. |
| [fol. 108] | | |
| 8-18-20 | 31 | Joint passenger station (pamphlet). |
| 8-18-20 | 32 | S. P.-S. L.-P. E. plan for elimination of grade crossings. |

BEFORE RAILROAD COMMISSION OF CALIFORNIA.

Cases No. 970, etc.

[fols. 109-111] [Titles omitted]

[fol. 112] DECISION No. 9838

Opinion

BY THE COMMISSION:

Decision in the above-entitled proceedings, as consolidated at the original hearing, has been heretofore rendered (Decision No. 8901). Upon the filing by all of the defend-

ants of petitions for rehearing, and after hearing and argument thereon, it became apparent that certain modifications of the original findings and order were necessary and for that purpose a rehearing was granted.

In view of the exhaustive investigation that has been made and the full and complete presentation of evidence by all parties at the former hearings, and the further fact that the Commission has viewed the premises and is thoroughly familiar with the physical conditions, it is not considered necessary to reopen the case for the taking of further evidence. At the request of the Commission, there have been filed by all parties written stipulations that all the evidence and arguments taken at former hearings might be considered as the evidence and record on hearing.

In the former opinion the facts relative to grade crossing elimination and the union passenger depot were thoroughly discussed and the reasons generally upon which the Commission based its findings were set forth. In addition to this it was deemed necessary, inasmuch as the various complainants and the City has asked the Commission to make a comprehensive investigation of the entire railroad situation in Los Angeles, to discuss all aspects of the transportation problem from the standpoint of both immediate and future needs and to include some suggestions relative to future developments, which necessarily could not be included in the order. In view of the fact that the work done and the investigation made in this case may be the basis, in part at least, for supplemental orders that may be necessary to the carrying out of the general scheme of traffic reorganization in Los Angeles asked for by complainants, all that was said [fol. 113] in the former opinion is now considered pertinent and of value herein and the same is therefore approved, except as herein modified.

It is only necessary here to consider the questions which were presented in the petitions and arguments for rehearing and in particular those which make a modification of the findings and order necessary.

1. Pacific Electric.—It is complained that as to the Pacific Electric the order is unlawful in that it requires participation in the construction of a union station and in the separation of grades at Macy and Seventh Streets whereas the evidence shows that the Pacific Electric has no interest in a

union station at all and maintains no tracks on the streets mentioned. A careful review of the record leads us to conclude that there was not sufficient evidence upon which to base the findings and order that the Pacific Electric should participate in the construction of a union terminal at the Plaza. The Pacific Electric will, therefore, be eliminated from that part of the order. As to grade crossings, it was, of course, not contemplated that the Pacific Electric should participate in any construction at crossing where it has no tracks; however, in order that there may be no misunderstanding, the order will be modified in that particular and the Pacific Electric Company will be specifically required to participate in the separation of grade crossings at Aliso Street and the Los Angeles river, in accordance with the relief asked in cases 974, 980, 981 and 983. Inasmuch as the suspension of the original order automatically suspended the dismissal of these four cases and reinstated them, that part of the order dismissing these cases will be omitted from the present order, and the decision and order herein will be the decision and order in said four cases as consolidated in the entire proceeding.

2. Grade Crossing Separation.—No special complaint was made in the petitions for rehearing or in the oral arguments [fol. 114] thereon concerning that part of the order which required the separation of grade crossings. It was admitted by all parties that the grade crossings are dangerous, and that there is abundant evidence to show that public convenience and necessity require the elimination of all the grade crossings mentioned in the order. It was stated by counsel for the Southern Pacific Company, in argument upon rehearing, that "So far as the grade crossing elimination is concerned, we have from the very beginning been frank in stating that it was the desire of carriers to fully cooperate to the fullest extent in eliminating the condition which now exists." By the filing of Application No. 3346 three of the carriers, the Southern Pacific Company, Los Angeles and Salt Lake Railroad Company, and Pacific Electric Company, practically admitted that the only effective method of eliminating the grade crossing evil from Alameda street is to remove all railroad traffic (except freight switching during limited hours) from that street. These carriers propose in this application to do this by making the

resent Southern Pacific station a partially unified terminal nd bringing trains to it by means of a trestle direct from he Los Angeles River. The Commission found, and its nding was supported by abundant evidence, that this plan id not eliminate all the grade crosisngs, and that it only rovided for a partial and unsatisfactory solution of the rminal question. The Commission was, however, also of he opinion that the only method of eliminating grade cross-gs from Alameda street is to remove all main line traffic herefrom, but found that this can only be safely, effectively nd satisfactorily accomplished by the construction of a epot at the Plaza. A review of the record convinces us hat this finding is amply supported by evidence. The for-er findings and order as to grade crossings will, therefore, emain substantially unchanged.

[ol. 115] 3. Union Terminal.—All the constitutional uestions and the questions relating to jurisdiction that ere urged by the carriers upon rehearing, relate to that art of the order requiring the construction of a union epot. Without going into an extended discussion of the uestions involved, we may say that we are satisfied that he order does not amount to a taking of private property or public use without just compensation, nor does it take roperty without due process of law, or deny defendants qual protection of the law. We are also satisfied that the ommission has full jurisdiction of the subject matter of he order and that its authority to make the order has not een taken away or impaired by Federal statutes.

It was urged by the carriers that the order requiring a nion passenger depot at the Plaza is without support in he evidence and that the Commission disregarded the evi-ence of carriers and relied exclusively upon the report of he Commission's own engineer. The Commission has ven this claim careful consideration. Five detailed plans or a union terminal were introduced in evidence by five ifferent witnesses. They were the Hawgood plan, the ernard plan, the Storrow plan, the Southern Pacific-Salt ake plan and the Sachse plan. With the exception of the outhern Pacific-Salt Lake plan, all of these plans called or a union passenger depot at the Plaza, but differed as to he exact location of the depot and the arrangement of acks, approaches, etc. In addition to these, the so-called

Arnold report was introduced and there was much other evidence, all supporting the general proposition that a union depot at the Plaza was necessary. The Commission did not rely solely on the report of its own engineer, nor did it adopt the Sachse plan in all its particulars; but, in accordance with the overwhelming preponderance of the evidence, the Commission did order a union depot at the general site of the Plaza, and left the exact location of the depot, tracks, approaches, etc. to be determined by the [fol. 116] carriers themselves, subject only to the final approval of the Commission.

That public convenience and necessity require the construction of a union depot at the Plaza is supported by abundant evidence. The very first witness who took the stand, Mr. Storrow, began by stating that any comprehensive plan for the entire elimination of grade crossings involved the construction of a new union depot, and that such a plan for grade crossing elimination was not applicable to any location for a union depot except the Plaza. Much testimony was thereafter given, and much argument made to the effect that a complete and satisfactory solution of the grade crossing situation was dependent upon a union depot at the Plaza, and the Commission finds this to be the fact. That such a finding is amply supported by the evidence we entertain no doubt.

The evidence was equally clear as to the inadequacy of the present passenger depots of the carriers. The Los Angeles and Salt Lake Railroad Company's depot is admittedly inadequate. Built in 1891, at an estimated cost of $10,000, it is shamefully lacking in every particular necessary to satisfy the requirements of public convenience and necessity of a city of six hundred thousand people. The Santa Fe depot, built in 1893, at an estimated cost of $50,000, now "provides scant facilities for the use of passengers," and is also wholly inadequate for present and future needs. As to the Southern Pacific depot, its continued use does not conform to any satisfactory plan for the elimination of the grade crossings on Alameda street. The imperative public necessity for the elimination of these grade crossings is a complete answer to the claim that the order requiring the abandonment of this depot amounts to a taking of property without compensation.

In arguments on rehearing, considerable stress was laid upon the alleged cost of a union passenger station at the Plaza. The matter of cost was thoroughly discussed in [fol. 117] the former opinion; it only remains to add that a very large expenditure on the part of all carriers will be immediately necessary, irrespective of what plan the Commission might adopt. Under the Southern Pacific and Salt Lake's own plan, approximately $17,000,000 would have to be expended. The Commission is convinced that the needs of the public will not be met by this plan, but believes, on the contrary, that public convenience and necessity require a complete and satisfactory solution of the grade crossing and terminal questions, and that, therefore, public convenience and necessity not only justify, but require the added expense necessary to such a solution.

Objection was made by the carriers to that portion of the order which requires the appointment of a representative committee, to which is to be delegated authority to prepare plans. On further consideration, the Commission has determined to modify the order in this regard and the order will be made, directing carriers themselves to prepare and submit plans and estimates of cost without the interposition of a representative committee.

No special reference was made in the former order to the part the City of Los Angeles should bear in the expense of eliminating the grade crossings along the Los Angeles River. It was, of course, understood by all parties that the city would pay a proportionate share of this expense. On further consideration the Commission has determined that the city should be specifically included in the order, and required to participate in the filing of the statement showing proportionate cost which each of the defendants and the city is to pay.

Considerable evidence was introduced by various parties concerning architectural beauty, improvement of real estate values, civic pride, and similar matters in connection with a union passenger station at the Plaza. The Commission desires to make it plain that no evidence of this character was considered of any importance in determining what the order should be, nor are any of these [fol. 118] matters made the basis of the decision in this case. The decision and order herein are based upon the

facts that the safety, comfort, convenience and necessity of the general public traveling across the grade crossings of the defendant carriers, also of the passengers and employees on the trains of said carriers, and also of the public utilizing passenger facilities in the city of Los Angeles, requires the elimination of grade crossings and the construction of a union passenger depot, as directed in the following order.

Findings and Orders

Complaints having been filed by the Municipal League, Central Development Association, Civic Center Association, and the cities of Pasadena, Alhambra, San Gabriel and South Pasadena, and an application filed by the Southern Pacific Company and the Los Angeles & Salt Lake Railroad Company, and all of these complaints and said application having been consolidated in this proceeding, and an exhaustive investigation into all of the matters connected therewith having been made by the Commission, public hearings having been held and the matters submitted for decision, the Commission now makes its findings of fact as follows:

1. That the existing grade crossings of the Southern Pacific Company's tracks on Alameda Street, at College Street, North Main Street, Macy Street, Aliso Street, Commercial Street, Jackson Street, East First Street, East Second Street, East Third Street, East Fourth Street, East Sixth Street, Industrial Street, East Seventh Street, East Eighth Street, East Ninth Street, East Fourteenth Street and East Fifteenth Street, in the City of Los Angeles, and certain existing grade crossings adjacent to the Los Angeles River in the City of Los Angeles, to-wit, the crossing of Macy Street by the tracks of The Atchison, Topeka and Santa Fe Railway Company, the crossing of Aliso Street and of the [fol. 119] tracks of the Pacific Electric Railway Company thereon by the tracks of The Atchison, Topeka and Santa Fe Railway Company and by the tracks of the Los Angeles and Salt Lake Railroad Company and the crossing of Seventh Street by the tracks of The Atchison, Topeka and Santa Fe Railway Company and by the tracks of the Los Angeles and Salt Lake Railroad Company are unsafe, and the continued use thereof for the movement of trains by the said respective

carriers using such crossings endanger the employees of said carriers and the public generally; and that public interest, safety, convenience and necessity require that all such dangerous conditions at said crossings be eliminated.

2. That the existing passenger stations of The Atchison, Topeka and Santa Fe Railway Company at East Second Street and Santa Fe avenue in the City of Los Angeles, and of the Los Angeles and Salt Lake Railroad Company at East First Street near the east bank of the Los Angeles River in the City of Los Angeles, are improper, inadequate and insufficient to promote the security, convenience and necessity of the public. That the existing depot of the Southern Pacific Company at Fifth and Alameda Streets in the City of Los Angeles does not conform to the plan for the elimination of said dangerous railroad grade crossings in the City of Los Angeles herein found to be required by public safety, convenience and necessity.

3. That in order to eliminate the dangerous grade crossings hereinabove enumerated and to provide adequate and sufficient passenger stations for the Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and Los Angeles and Salt Lake Railroad Company, in the City of Los Angeles, for the promotion of the security, convenience and necessity of their employees and that of the public generally, and to secure adequate service and facilities for the performance by the said defendants, and each of them, of their public utility functions in the state of Cali- [fol. 120] fornia, it is necessary, and the public safety, convenience and necessity require that a new structure or structures, to-wit, a union passenger station and buildings incidental thereto, be erected by the defendants, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and in connection therewith such improvements and changes in existing facilities of said defendants be made by said defendants as may be reasonably necessary and incidental to the use of said union passenger station, and that all railroad traffic be eliminated from Alameda Street, between College Street and Fifteenth Street, inclusive, in the City of Los Angeles, except local freight switching. That public safety, convenience and necessity require that a separation of grade be made by the defendants speci-

fied in the order herein at the said crossings adjacent to the Los Angeles River in the City of Los Angeles, to-wit, the crossing of Aliso Street and the tracks of the Pacific Electric Railway Company thereon by the tracks of The Atchison, Topeka and Santa Fe Railway Company and by the tracks of the Los Angeles and Salt Lake Railroad Company, the crossing of Macy Street by the tracks of The Atchison, Topeka and Santa Fe Railway Company and by the tracks of the Los Angeles and Salt Lake Railroad Company and the crossing of East Seventh Street by the tracks of The Atchison, Topeka and Santa Fe Railway Company and by the tracks of the Los Angeles and Salt Lake Railroad Company.

4. That public safety, convenience and necessity require the location and the site of the Union passenger station referred to in paragraph three of these findings be within the portion of the City of Los Angeles bounded by Commercial Street, North Main Street, Redondo Street, Alhambra Avenue and the Los Angeles River.

Basing its order upon said findings of fact and the further findings and statements of fact contained in the original opinion in this case and the opinion preceding this order:

[fol. 121] It is hereby ordered:

1. That the defendants, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and each of them, proceed to the procurement of sufficient grounds within the boundaries hereinafter set out, and proceed with the construction of an adequate union passenger station thereon and buildings incidental thereto in the City of Los Angeles, and to make such additions to, extensions of, improvements and changes in the existing railroad facilities of said companies as may be reasonably necessary and incidental to the use of said union passenger station.

2. That the site of the union passenger station referred to in paragraph one of this order shall be within that portion of the City of Los Angeles bounded by Commercial Street, North Main Street, Redondo Street, Alhambra Avenue and the Los Angeles River.

3. That said Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and the Los An-

geles and Salt Lake Railroad Company, and each of them, within six (6) months from the effective date hereof, file with this Commission, for its approval, a general plan or plans, with the necessary profile or profiles, and general and detailed drawings, of a union passenger station located on said site, together with all additions to, extensions of, improvements and changes in existing railroad facilities as are reasonably necessary and incidental to the use of said union passenger station; also estimates of cost of construction of said union passenger station, together with said necessary facilities and additions to, extensions of, improvements and changes in existing railroad facilities; also estimates of damages and of salvage; also description and plans of the necessary temporary operating arrangements during the period of the transition pending the completion of said new union passenger station.

4. That at the time of the filing of the plans referred to [fol. 122] in paragraph three of this order, the said Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and each of them, shall file with this Commission a statement of the proportionate expense which each of said defendants is to bear for the procurement of said site and the construction of said union passenger station and said necessary facilities and changes, additions, extensions and improvements to existing facilities; and in the event said defendants shall fail to file said statement, showing the proportion of the expense which each of them is to bear, as herein required, this Commission will proceed to fix and apportion said expense to each of said defendants.

5. That upon the filing of the plans referred to in paragraph three of this order, this Commission will either approve said plans or require the same to be modified until they meet with its approval. Work upon the construction of said union passenger station shall commence within ninety (90) days after the approval by the Commission of said plans and shall be completed within three (3) years from that date, unless for good cause an extension of time is granted.

6. That defendant, The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Rail-

road Company, and each of them, shall proceed to the construction of such viaducts, works and structures as may be necessary to provide for a separation of the grades of the railway tracks of said defendants from the public streets at Macy and East Seventh Streets in the City of Los Angeles.

7. That said The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and each of them, shall, within sixty (60) days from the effective date of this order, file with this Commission a general plan or plans providing for grade separations at said Macy and Seventh streets; also, profile [fol. 123] or profiles and detailed drawings of viaducts necessary for such grade separations, together with estimates of the cost of construction for each viaduct and for incidental expenditures and for damages.

8. That at the time of filing the plans referred to in paragraph seven of this order, the said The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and each of them, and the City of Los Angeles shall file with this Commission a statement showing the proportionate expense which each of said defendants and said city is to bear for the construction of said viaducts and other necessary works for the separation of grade crossings. In the event said defendants and said city shall be unable to agree as to the proportionate expense to be borne by each for the viaducts and works necessary to the separation of said grades, the expense of such structures and works shall be apportioned to each of said defendants and said city by this Commission.

9. That upon the filing of the plans referred to in paragraph seven of this order, this Commission will either approve said plans or require the same to be modified until they meet with its approval. Work upon said viaducts, structures and works for the separation of grades at said Macy Street and Seventh Street shall commence within thirty (30) days after the approval by the Commission of said plans, and shall be completed within two (2) years from that date, unless for good cause an extension of time is granted.

10. That defendants, The Atchison, Topeka and Santa Fe Railway Company, the Los Angeles and Salt Lake Railroad Company and the Pacific Electric Railway Company, and each of them, shall proceed to the construction of such viaducts, works and structures as may be necessary to provide for a separation of the grades of the railway tracks of said defendants from the public street at Aliso Street in the City of Los Angeles, and of the tracks of the Pacific [fol. 124] Electric Railway Company from the tracks of said other defendants.

11. That said The Atchison, Topeka and Santa Fe Railway Company, the Los Angeles and Salt Lake Railroad Company and the Pacific Electric Railway Company, and each of them, shall, within sixty (60) days from the effective date of this order, file with this Commission a general plan or plans, providing for said grade separations at Aliso Street; also profile or profiles and detailed drawings of viaducts necessary for such grade separations, together with estimates of cost of construction for each viaduct and for incidental expenditures and for damages.

12. That at the time of filing the plans referred to in paragraph eleven of this order, the said The Atchison, Topeka and Santa Fe Railway Company, the Los Angeles and Salt Lake Railroad Company and the Pacific Electric Railway Company, and each of them, and the City of Los Angeles, shall file with this Commission a statement showing the proportionate expense which each of said defendants and said city is to bear for the construction of said viaducts and other necessary works for the separation of said grade crossings. In the event said defendants and said city shall be unable to agree as to the proportionate expense to be borne by each for the viaducts and works necessary to the separation of said grades, the expense of such structures and work shall be apportioned to each of said defendants and said city by this Commission.

13. That upon the filing of the plans referred to in paragraph eleven of this order, this Commission will either approve said plans or require the same to be modified until they meet with its approval. Work upon said necessary viaducts, structures and works for the separation of grades at said Aliso Street shall commence within thirty (30) days

after the approval by the Commission of said plans and shall be completed within two (2) years from said date, unless for good cause an extension of time is granted.

[fol. 125] 14. That upon the completion of the union passenger terminal as required by this order, the defendant, Southern Pacific Company, shall discontinue the operation of trains on Alameda Street, between College Street and Fifteenth Street, inclusive, in the City of Los Angeles, except for the purpose of local freight switching, which may be carried on during limited hours to be hereafter fixed by supplemental order.

It is hereby further ordered, that Application No. 3346 of the above entitled proceedings be, and the same is, hereby dismissed.

The effective date of this order is hereby fixed and designated as the third day of January, 1922.

Wherever in this order a time is fixed for the doing of any act or the compliance with any term or condition of the order, such time shall be computed from said date.

The Railroad Commission reserves the right to make such further order or orders in these proceedings relating to the construction, operation, modification and abandonment of facilities, to costs and division of costs, and to all other matters relating thereto, as may be determined by the Commission to be just and reasonable and as public safety, convenience and necessity may require.

Dated at San Francisco, California, this 6th day of December, 1921.

H. W. Brundige, H. D. Loveland, Irving Martin, Chester H. Rowell, H. S. Benedict, Commissioners.

Certified as a true copy.

H. G. Mathewson, Secretary Railroad Commission, State of California.

[fol. 126] IN SUPREME COURT OF CALIFORNIA

(L. A. No. 7166. In Bank. December 19, 1922)

THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY (a Corporation), Petitioner,

v.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, Respondent

(L. A. No. 7165. In Bank. December 19, 1922)

LOS ANGELES & SALT LAKE RAILROAD COMPANY (a Corporation), Petitioner,

v.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, Respondent

SOUTHERN PACIFIC COMPANY (a Corporation) et al., Petitioners,

v.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, Respondent

Proceedings in certiorari to review an order of the Railroad Commission providing for the elimination of grade crossings and the establishment of a union terminal depot. Order annulled.

The facts are stated in the opinion of the court.

E. W. Camp, Paul Burks, M. W. Reed, C. W. Durbrow, A. S. Halsted, Fred E. Pettit, Jr., and Wm. F. Herrin for Petitioners.

Hugh Gordon and William W. Clary for Respondent.

Jess E. Stephens, Milton Bryan and Max Thelen for City of Los Angeles.

Seward A. Simons for Central Development Association of Los Angeles.

Marshall Stimson for Civil Center Association of Los Angeles.

James H. Howard for City of Pasadena.
William Hazlett for City of South Pasadena.
F. W. Henshaw and Corbet & Selby, of Counsel.

DECISION

THE COURTS These three proceedings were instituted before this court for the purpose of having reviewed and annulled an order of the Railroad Commission, made in certain proceedings before that body of the following nature: In 1916 the Civic Center Association of the City of Los Angeles filed a complaint before the commission [fol. 127] against the Southern Pacific Company, the Atchison, Topeka & Santa Fe Company and the Los Angeles and Salt Lake Company, praying for an order providing for the elimination of certain grade crossings in said city and for the establishment of a union depot therein. Two other civic organizations of said city presently filed similar petitions asking for like orders. Four petitions were also filed from adjacent municipalities asking for the elimination of grade crossings and a reorganization of the track systems of these several railroad corporations. In addition to these the Southern Pacific Company and the Los Angeles & Salt Lake Railroad Company united in an application to the commission for the establishment of a union terminal depot as to themselves upon a certain site and also for the elimination of certain grade crossings as an incident to the location of said terminal. These eight proceedings were consolidated by the stipulation of all of the parties and heard as one proceeding before the Commission, which, after a prolonged and exhaustive consideration of the issues involved, made its order for the elimination of certain grade crossings and for the establishment of a union terminal depot for all of said railroads, to be located within a certain defined area. The present proceedings were instituted to review this order. Upon the filing of the return to the writ this court made an order consolidating these three proceedings for the purpose of hearing and decision.

This court has already had before it the question as to the power of the Railroad Commission to provide for the elimination of grade crossings as to all of the present petitioners, in the case of Civic Center Assn., etc., v. Railroad

Commission, 175 Cal. 441, in which case it was held as between itself and the city of Los Angeles the Railroad Commission possessed this power and was directed to exercise it. In proceeding to exercise said power pursuant to such direction the Railroad Commission, in the course of hearings upon the consolidated proceedings before it, concluded [fol. 128] that as an indispensable element in the elimination of the proposed grade crossings it was necessary to provide for a union terminal depot for all three railroads, with such changes and extensions of the railroad lines of each as would be necessary for the utilization of said depot by each and all of these railroads; and it therefore assumed and exercised the power so to do, whereupon the present proceedings were instituted by the petitioners herein.

The main contention of the petitioners is that the Railroad Commission has no jurisdiction to make any order or orders relative to the establishment and construction of a union depot for part or all of the petitioners herein, for the reason that such power has been taken from the state and its agency and has been vested in the Interstate Commerce Commission by virtue of the amendment to the Interstate Commerce Commission Act made by Congress on February 28, 1920. This contention, standing as it does upon the threshold of the subject under review will be first considered.

The act of Congress above referred to, and commonly known as the Esch-Cummings Act, is twofold in its purposes and effects. Its first objecte was to accomplish the termination of the control of the railroads taken over by the federal government during the progress of the war by virtue of the "Federal Control Act," approved March 21, 1918, and by the later amendments to said Act. The second of its main objects was to amend the act of Congress commonly known as the "Interstate Commerce Act," originally approved February 24, 1887, with its later amendments. It is with this latter purpose that we are concerned in this proceeding. An inspection of this portion of the said amendatory act discloses that it embodies a large number of amendments to the Interstate Commerce Act as it existed at the date of said amendment, and that many of these are of the most important and far-reaching character. The supreme court of the United States in the recent case of Railroad Commission of Wis-

consin v. Chicago, B. & Q. R. R. Co., 257 U. S. 563, 42 Sup. [fol. 129] Ct. Rep. 232, in reciting the provisions and commenting upon the scope of said amendatory act, says:

"It is manifest from this very condensed recital that the act made a new departure. Theretofore the control which Congress through the Interstate Commerce Commission exercised was primarily for the purpose of preventing injustice by unreasonable or discriminatory rates against persons and localities, and the only provisions of the law that inured to the benefit of the carriers were the requirement that the rates should be reasonable in the sense of furnishing an adequate compensation for the particular service rendered and the abolition of rebates. The new measure imposed an affirmative duty on the Interstate Commerce Commission to fix rates and to take other important steps to maintain an adequate railway service for the people of the United States. This is expressly declared in section 15a to be one of the purposes of the bill."

Turning to the provisions of said amendatory act which embody these radical extensions of the powers and duties of the Interstate Commerce Commission, we find that section 15a thereof to which the foregoing decision expressly refers, greatly enlarges the powers of the commission with regard to the regualtion of not only interstate but also of intrastate rates, whenever the control and regulation of the latter are necessary to the exercise of the affirmative powers of Congress in developing interstate commerce. The decision above referred to expressly deals with that phase of the question and upholds the powers with which the Interstate Commerce Commission is invested under said section of the amendatory act. Turning to the provision of said act amending the first paragraph of section 5 of the Interstate Commerce Act we find in subdivisions 4 and 5 thereof the following express statement of the scope and purposes of [fol. 130] said act:

"(4) The Commission shall as soon as practicable prepare and adopt a plan for the consolidation of the railway properties of the continental United States into a limited number of systems. In the division of such railways into such systems under such plan, competition shall be preserved as fully as possible and wherever practicable, the

existing routes and channels of trade and commerce shall be maintained. Subject to the foregoing requirements, the several systems shall be so arranged that the cost of transportation as between competitive systems and as related to the values of the properties through which the service is rendered shall be the same, so far as practicable, so that these systems can employ uniform rates in the movement of competitive traffic and under efficient management earn substantially the same rate of return upon the value of their respective railway properties."

"(5) When the Commission has agreed upon a tentative plan, it shall give the same due publicity and upon reasonable notice, including notice to the Governor of each State, shall hear all persons who may file or present objections thereto. The Commission is authorized to prescribe a procedure for such hearings and to fix a time for bringing them to a close. After the hearings are at an end, the Commission shall adopt a plan for such consolidation and publish the same; but it may at any time thereafter, upon its own motion or upon application, reopen the subject for such changes or modifications as in its judgment will promote the public interest. The consolidations herein provided for shall be in harmony with such plan."

In the interpretation to be given to the further provisions of said act, having more particular reference to the immediate question before us, the foregoing provisions of said act expressive of its enlarged scope and purposes are to be [fol. 131] borne in mind. Having these in view, the following provisions of the act are found to bear directly upon the powers and functions with which the Interstate Commerce Commission have been invested, with relation to any and all extensions and changes in the lines, tracks and facilities of railroads engaged wholly or largely in interstate commerce. The term "railroad" as used in said act is defined by subdivision 3 of section 1 of the Interstate Commerce Act as thus amended as including "all the road in use by any common carrier operating a railroad, whether owned or operated under a contract, agreement or lease, and also all switches, spurs, tracks, terminals, and terminal facilities of every kind used or necessary in the transportation of the persons or property designated herein, including all freight

depots, yards and grounds, used or necessary in the transportation or delivery of any such property." The term 'car service' as employed in said amendatory act is defined in subdivision 10 of section 1 of the Interstate Commerce Act, as thus amended, to include the use, control, supply, movement, distribution, exchange, interchange and return of locomotives, cars and other vehicles used in the transportation of property, including special types of equipment and the supply of trains by any carrier by railroad, subject to this act. Subdivision 15 of said section 1 of the said original act as thus amended provides:

"Whenever the Commission is of opinion that shortage of equipment, congestion of traffic, or other emergency requiring immediate action exists in any section of the country, the Commission shall have, and it is hereby given, authority, either upon complaint or upon its own initiative without complaint, at once, if it so orders, without answer or other formal pleading by the interested carrier or carriers, and with or without notice, hearing, or the making or filing of a report, according as the Commission may determine: * * * (c) to require such joint or common use [fol. 132] of terminals, including main-line tracks or tracks for a reasonable distance outside of such terminals, as in its opinion will best meet the emergency and serve the public interest, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable."

Subdivision 18 of said section 1 of said original act as thus amended further provides:

"(18) After ninety days after this paragraph takes effect no carrier by railroad subject to this Act shall undertake the extension of its line of railroad, or the construction of a new line of railroad, or shall acquire or operate any line of railroad, or extension thereof, or shall engage in transportation under this Act over or by means of such additional or extended line of railroad, unless and until there shall first have been obtained from the Commission a certificate that the present or future public convenience and necessity require or will require the construction, or operation, or construction and operation, of such additional or extended line

of railroad, and no carrier by railroad subject to this Act shall abandon all or any portion of a line of railroad, or the operation thereof, unless and until there shall first shall have been obtained from the Commission a certificate that the present or future public convenience and necessity permit of such abandonment" (U. S. Stats. at Large, Vol. 41, p. 477).

Subdivision 21 of said section 1 of said original act as thus amended in part provides:

"(21) The Commission may, after hearing, in a proceeding upon complaint or upon its own initiative without complaint, authorize or require by order any carrier by railroad subject to this Act, party to such proceeding, to provide itself with safe and adequate facilities for performing as a common carrier its car service as that term is used in this Act, and to extend its line or lines: Provided, That no such authorization or order shall be made unless the Commission finds, as to such extension, that is is reasonably required in [fol. 133] the interest of public convenience and necessity, or as to such extension or facilities that the expense involved therein will not impair the ability of the carrier to perform its duty to the public."

Subdivision 22 of said section 1 of said original act as thus amended provides:

"(22) The authority of the Commission conferred by paragraphs (18) to (21), both inclusive, shall not extend to the construction or abandonment of spur, industrial, team, switching or side tracks, located or to be located wholly within one State, or of street, suburban, or interurban electric railways, which are not operated as a part or parts of a general steam railroad system of transportation."

Subdivisions 3 and 4 of section 3 of the original act as thus amended provides:

"(3) All carriers, engaged in the transportation of passengers or property, subject to the provisions of this Act, shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers or property to

and from their several lines and those connecting therewith, and shall not discriminate in their rates, fares, and charges between such connecting lines, or unduly prejudice any such connecting line in the distribution of traffic that is not specifically routed by the shipper."

"(4) If the Commission finds it to be in the public interest and to be practicable, without substantially impairing the ability of a carrier owning or entitled to the enjoyment of terminal facilities to handle its own business, it shall have power to require the use of any such terminal facilities, including main line track or tracks for a reasonable distance outside of such terminal, of any carrier, by another carrier or other carriers, on such terms and for such compensation as the carriers affected may agree upon, or, in the event of a failure to agree, as the Commission may fix as just and reasonable for the use so required, to be ascertained on the principle control-line compensation in con- [fol. 134] demnation proceedings. Such compensation shall be paid or adequately secured before the enjoyment of the use may be commenced. If under this paragraph the use of such terminal facilities of any carrier is required to be given to another carrier or other carriers, and the carrier whose terminal facilities are required to be so used is not satisfied with the terms fixed for such use, or if the amount of compensation so fixed is not duly and promptly paid, the carrier whose terminal facilities have thus been required to be given to another carrier or other carriers shall be entitled to recover, by suit or action against such other carrier or carriers, proper damages for any injuries su-tained by it as the result of compliance with such requirement, or just compensation for such use, or both, as the case may be."

The foregoing excerpts from among the many provisions of said amendatory act would seem to fully justify the statement of Chief Justice Taft, above quoted from the decision of the supreme court of the United States, as to the radical departure effected by the said amendment to the Interstate Commerce Act in the direction of placing the entire control over the rates, properties, tracks, terminals and facilities of the railroads engaged in interstate commerce in and under the jurisdiction of the Interstate Commerce Commission. That Congress had the full power so to do, is

established by a long line of judicial decisions reaching back to the leading case of Gibbons v. Ogden, 9 Wheat. 1, wherein Chief Justice Marshall carved out the pathway for all later decisions by the declaration that the power of Congress to regulate commerce among the several states is supreme and plenary; "is complete in itself, may be exercised to its utmost extent and acknowledges no limitations other than are prescribed in the Constitution." It is needless to cite in detail the almost numberless cases in which the doctrine enunciated in that early decision has been reiterated and applied, but among the more recent cases [fol. 135] involving its application are the Minnesota Rate Cases, 230 U. S. 352, wherein the supreme court of the United States, Mr. Justice Hughes delivering the opinion (p. 432), gives very full and exhaustive consideration to the question as to the scope and effect of the federal legislation upon the subject of interstate commerce, with special reference to its limitations upon the legislative or administrative power of the states to deal with any matters relating to interstate commerce coming within the terms and scope of such federal legislation. In the course of that decision Mr. Justice Hughes makes use of the following significant language in considering certain phases of those cases analogous to those presented in the case at bar:

"The interblending of operations in the conduct of interstate and local business by interstate carriers is strongly pressed upon our attention. It is urged that the same right-of-way, terminals, rails, bridges, and stations are provided for both classes of traffic; that the proportion of each sort of business varies from year to year and, indeed, from day to day; that no division of the plant, no apportionment of it between interstate and local traffic, can be made to-day, which will hold to-morrow; that terminals, facilities and connections in one State aid the carrier's entire business and are an element of value with respect to the whole property and the business in other States; that securities are issued against the entire line of the carrier and cannot be divided by States; that tariffs should be made with a view to all the traffic of the road and should be fair as between through and short-haul business; and that, in substance, no regulation of rates can be just, which does not take into consideration the whole field of the carrier's operations, ir-

respective of state lines. The force of these contentions is emphasized in these cases, and in others of like nature, [fol. 136] by the extreme difficulty and intricacy of the calculations which must be made in the effort to establish a segregation of intrastate business for the purpose of determining the return to which the carrier is properly entitled therefrom.

"But these considerations are for the practical judgment of Congress in determining the extent of the regulation necessary under existing conditions of transportation to conserve and promote the interests of interstate commerce."

(1) Numerous other cases may be cited from both federal and state courts sustaining the rule that wherever the interstate and intrastate transactions of carriers are so related that the government of the one involves the control of the other, it is Congress, and not the state, that is entitled to prescribe the final and dominant rule, for otherwise Congress would be denied the exercise of its constitutional authority and the state, and not the nation, would be supreme within the national field. (Houston & Texas Ry. v. United States, 234 U. S. 342, 351, and cases cited. The case of People ex rel. New York Central R. R. Co. v. Public Service Commission, 233 N. Y. 113, is a case which nearly approaches identity with the case at bar. It involves the question as to whether under the public service commission law of the state of New York the public service commission of that state had power to make an order directing two railroad companies, engaged in interstate and intrastate commerce within that state, to reconstruct a switch or track connecting their lines and install other tracks and facilities so as to furnish adequate and convenient interchange of freight between said railroads. Upon appeal from an order dismissing a writ of review instituted by the relator for the purpose of testing the power of the public service commission to make said order, it was held by said court that the state commission had no jurisdiction to make such order in view of the provisions [fol. 137] of the act of Congress of 1920 amending the interstate commerce law. The court said:

"The Transportation Act of 1920, section 402, amended the second paragraph of section 3 of the Interstate Com-

merce Act to provide: 'All carriers, engaged in the transportation of passengers or property, subject to the provisions of this Act, shall, according to their respective powers, afford all reasonable, proper and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding and delivering of passengers or property to and from their several lines and those connecting therewith, and shall not discriminate in their rates, fares and charges between such connecting lines, or unduly prejudice any such connecting line in the distribution of traffic that is not specifically routed by the shipper.'

"A violation of that provision of the act of Congress authorizes a complaint by any interested party to the interstate commerce commission, and after a hearing before that commission to such relief as the facts warrant. The interstate commerce commission is clothed with authority by the section quoted to compel carriers to afford reasonable and proper facilities for the interchange of traffic between their respective lines. The order made by the public service commission commands relator and the Lehigh Valley to make such track connections between their roads as shall be necessary or proper to establish and furnish adequate and convenient interchange of freight between said roads. To sustain the order of the public service commission in the instant case would necessarily establish that the two several commissions mentioned were clothed with jurisdiction to grant the relief sought and require us to ignore the well-established principle of law that the Congress having delegated to the interstate commerce commission power to deal with the subject-matter of this proceeding, an exercise of like power by the state is thereby [fol. 138] superseded." Citing Erie R. R. Co. v. People of the State of New York, 233 U. S. 671; Chicago, R. I. & P. Ry. Co. v. Hardwick Elevator Co., 226 U. S. 426.

The respondents herein, however, contend that the Railroad Commission was empowered to make and enforce the order sought to be annulled in this proceeding under the authority of the case of Missouri, etc. v. Larrabee, 211 U. S. 612. That case held that the mere delegation by Congress to the Interstate Commerce Commission of power to act in a given matter did not prevent such action by the state

authorities unless the commission had taken action in the particular matter involved, quoting therefrom the following:

"Until then the authority of the state in merely incidental matters remains undisturbed. In other words, the mere grant by Congress to the Commission of certain national powers in respect to interstate commerce does not of itself, and in the absence of action by the Commission, interfere with the authority of the state to make those regulations conducive to the welfare and convenience of its citizens."

In the matter of the extension of railroad facilities and in the abandonment of other railroad facilities, including terminals, not only is the commission empowered to act upon the subject, but Congress has expressly prohibited the railroad companies from acting without the consent of the Interstate Commerce Commission (see sec. 1, subd. 18, supra). Subdivision 20 of that section (41 U. S. Stats., at Large, p. 478), construed in connection with subdivisions 19 and 21, authorizes the commission to issue a certificate for the extension or abandonment of portions of railway lines and for the issuance of a certificate authorizing such work to be done or a line to be abandoned (subd. 18, 19, 20, [fol. 139] 21), and with reference to such certificate provides as follows:

"From and after issuance of such certificate, and not before, the carrier by railroad may, *without securing approval other than such certificate*, comply with the terms and conditions contained in or attached to the issuance of such certificate and proceed with the construction, operation or abandonment covered thereby. Any construction, operation, or abandonment contrary to the provisions of this paragraph or of paragraph (18) or (19) of this section may be enjoined by any court of competent jurisdiction at the suit of the United States, the Commission, any commission or regulating body of the State or States affected, or any party in interest; and any carrier which, or any director, officer, receiver, operating trustee, lessee, agent, or person, acting for or employed by such carrier, who knowingly authorizes, consents to, or permits any violation of the provisions of this paragraph or of paragraph (18) of this sec-

tion, shall upon conviction thereof be punished by a fine of not more than $5,000 or by imprisonment for not more than three years, or both." (Italics ours.)

(2) It is clear from the foregoing that Congress has not only vested jurisdiction in the Interstate Commerce Commission over the question of the extension of terminal facilities, such as contemplated by the order of the Railroad Commission in the case at bar, but has also prohibited the railroads from making such improvements without the consent of the Interstate Commerce Commission. This being true, Congress has fully occupied the field of regulation of such matters and the power of the state commission has thereby been terminated.

An examination of the case of Missouri etc. v. Larrabee, supra, further shows that it was decided in 1909, several years prior to the passage of the Amendatory Act of 1920, and at a time prior to any attempt on the part of Congress to invest the Interstate Commerce Commission with jurisdiction over the matter of changes or extensions in inter-[fol. 140] state railroad lines.

The respondents also urge the contention that since this court has decided in the case of Civic Center Association v. Railroad Commission, supra, that the Railroad Commission of California had jurisdiction to make and enforce orders providing for the elimination of those certain grade crossings involved, in part, in the proceedings before the Railroad Commission, and since the said commission had found and held in said proceedings that the establishment of a union terminal depot was an indispensable element in accomplishing the elimination of said grade crossings, the commission had the power to include in its order for the elimination of such grade crossings the creation of such union terminal depot. There is no merit in this contention, for the reason, very aptly set forth in the extract above quoted from the decision of the New York court of appeals in the case of People etc. v. Public Service Commission, supra. It is also without merit for the further reason that, notwithstanding the views expressed by the Railroad Commission in its findings and conclusions in the proceeding herein presented for review, we can perceive no indispensable relation between the elimination of grade cross-

ings and the establishment of union depot facilities, nor can we see any insurmountable difficulty why jurisdiction over the matter of eliminating grade crossings may not be exercised in a proper case consistently, and it may be concurrently, with the exercise of the authority which is vested by the act of Congress of 1920 in the Interstate Commerce Commission over the subject of union terminal depot facilities.

From the foregoing excerpts from the act of Congress of 1920, amendatory of the interstate commerce law, and from the authorities above cited, we arrive at the conclusion that full power and authority over the matter of union terminal depot facilities of the railroads which are largely engaged in interstate commerce, and who are the petitioners, herein, has been vested in the Interstate Commerce Commission [fol. 141] under the terms of said Amendatory Act of 1920, and that by virtue thereof the Railroad Commission of California, one of the respondents herein, has been divested of the power, authority and jurisdiction over that subject, sought by it to be exercised in the several proceedings before it and by the order presented for review herein. This disposition of the primary inquiry involved in these proceedings renders unnecessary a discussion of the several subsidiary questions presented for our consideration by the briefs of counsel herein.

The application is granted and the order of the Railroad Commission annulled.

Lennon, J., Waste, J., Wilbur, J., Shurtleff, J., Sloane, J., and Lawlor, J., concurred.

SHAW, C. J., concurring:

I concur in the foregoing opinion on the grounds therein stated.

I wish to say, however, in addition, that the conclusion that the Railroad Commission has no power to order the terminal depot in question constructed can also be reached by resort to the principle laid down in Atchison, T. & S. F. Ry. Co. v. Railroad Com., 173 Cal. 577. That decision establishes the principle that railroads are private property which are devoted to public use, and that the state has no power to order the railroad company, without its consent,

to establish a new line of railroad for the benefit of the public. The scheme here embraced in the order of the Railroad Commission contemplates the expenditure of a very large sum of money by the railroad companies in the construction of a new terminal depot for their joint use in a place where there is no existing depot and no track leading thereto. Entirely new tracks will have to be built to reach the new depot, and the land on which it is to be erected and on which the track is to be built will have to be acquired by [fol. 142] the said companies, or by some subsidiary company in which they are all interested, and vast sums of money must be used in constructing the buildings and tracks required for the union depot.

If this be true it is equally beyond the power of the Interstate Commerce Commission to make the order. To require the railroad companies to construct this depot and the tracks necessary therefor is equivalent to ordering them to dedicate new property to a public use. I know of no power which will justify the state in commanding a railroad company to thus acquire and dedicate property to a public use.

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[fol. 143] BEFORE RAILROAD COMMISSION OF CALIFORNIA

Cases No. 970, etc.

[Titles omitted]

[fol. 144] ORDER REOPENING MATTERS FOR FURTHER PROCEEDINGS

By the COMMISSION:

The Interstate Commerce Commission having, on July 6, 1925, rendered its decision in its Docket No. 14778 and Finance Docket Nos. 3556 and 3569, entitled respectively:

"City of Los Angeles, Complainant, vs. Los Angeles & Salt Lake Railroad Company, Pacific Electric Railway Company, Southern Pacific Company, Southern Pacific Railroad Company, The Atchison, Topeka and Santa Fe Railway Company and Union Pacific Railroad Company, Defendants," No. 14778.

[fol. 145] "In the Matter of the Application of Southern Pacific Company and Southern Pacific Railroad Company, for a certificate of public convenience and necessity, authorizing the abandonment of lines and the abandonment of certain main line freight and passenger service in Los Angeles, California, Finance Docket No. 3556.

"In the Matter of the Application of Southern Pacific Company, Southern Pacific Railroad Company, and Los Angeles & Salt Lake Railroad Company, for a certificate of public convenience and necessity for the construction of new lines and extension of lines of railroad in Los Angeles, California," Finance Docket No. 3569.

And said Interstate Commerce Commission having, among other things, found and declared as follows:

"That the present and future public convenience and necessity require and will require (a) the extension by defendants of their respective main lines of steam railroad in the city of Los Angeles, Calif., so as to reach and properly serve any union passenger station and terminal within that portion of said city bounded by Commercial Street, North Main Street, Redondo Street, Alhambra Avenue and the Los Angeles River, which they or any of them may construct and establish in accordance with a lawful order of the Railroad Commission of California, and (b) the extension of their respective main lines so as to properly provide for the rearrangement of passenger and freight routes incidental to the convenient and proper operation of such union passenger station and terminal."

And said Interstate Commerce Commission having further stated:

"An order will be entered denying the application in Finance Docket No. 3569. We are not advised what action, if any, the Railroad Commission of California will take in connection with these matters, and under the existing circumstances we will issue no certificates or further orders at this time. We will retain jurisdiction of No. 14778 and Finance Docket No. 3556 for the purpose of making such further findings and orders and issuing such certificates as the record warrants. The findings and order now made are based upon the present record and upon the plans pre-

sented to us. If, in the development of a union passenger terminal plan, the carriers or the Railroad Commission of California evolve a plan considerably more extensive than, or materially different from, a plan for a station within the Plaza area as here considered to be in the public interest, [fol. 146] our ultimate findings as to the public convenience and necessity, and as to the impairment of the carrier's ability to handle their own traffic and to perform their duties to the public, will of course be based upon a consideration of those facts rather than upon the present record."

And it further appearing that this Commission, in response to the petition of the Central Development Association of Los Angeles the complainant in Case No. 971 entitled as follows:

"Central Development Association of Los Angeles, Complainant, vs. Southern Pacific Company, Atchison, Topeka & Santa Fe Railway Company, Los Angeles & Salt Lake Railroad Company, Defendants,"

has this day made its order re-opening said Case No. 971 for further consideration; and

Good cause appearing that all of the proceedings heretofore considered by this Commission in connection with said Case No. 971 be re-opened for further consideration,

Now, therefore, it is hereby ordered that the above entitled matters be, and the same are hereby re-opened, and that a hearing upon said matters be had before this Commission en banc on Monday, the 30th day of November, 1925, at 10:00 a. m., in the Court Room of the Commission, 810 Pacific Finance Building, Los Angeles, California.

Dated at San Francisco, California, this 3rd day of October, 1925.

H. W. Brundige, C. L. Seavey, George D. Squires, Ezra W. Decoto, Leon O. Whitsell, Commissioners. (Seal.)

[fol. 147] Endorsements appearing on first page of document: Filed Sep. 16, 1025, Los Angeles Office, Railroad Commission. Filed Railroad Commission, State of California, Sep. 18, 1925. H. G. Mathewson, Secretary.

[fol. 148] BEFORE RAILROAD COMMISSION OF CALIFORNIA

No. 971

[Title omitted]

PETITION FOR REOPENING CASE

Central Development Association of Los Angeles, complainant herein, respectfully petitions that the Railroad Commission of the State of California make its order reopening the above entitled proceeding and setting the same for further hearing and for consideration of the issues presented therein, and as grounds for said petition respectfully shows:

I

By its previous decision rendered herein on the 6th day of December, 1921, this Honorable Commission found and declared that public convenience and necessity required the erection by the defendant railroads of a union passenger station within a certain described area adjacent to the Plaza in the City of Los Angeles, for the purpose of eliminating certain existing dangerous grade crossings and of providing adequate transportation facilities for the people of Los Angeles and surrounding communities; and basing its order upon said findings, ordered the defendant railroads to proceed with the erection of such union passenger depot. Thereafter, upon review by the Supreme Court of the State of California, said order was annulled upon the ground that the Interstate Commerce Commis-
[fol. 149] sion, under the provisions of the Transportation Act of 1920, had been given jurisdiction over the things required to be done by said carriers under the terms of said order of this Honorable Commission.

Upon certiorari to the United States Supreme Court, said decision of the Supreme Court of the State of California was affirmed in a decision rendered April 7, 1924, in which the Supreme Court of the United States said:

"We were advised by statements at the bar that, after the California Supreme Court handed down its decision in this case, the City of Los Angeles filed a petition with the Interstate Commerce Commission asking for an order to

provide, maintain and use a union station; that a hearing followed and that, pending the decision in this Court, the matter is held under consideration.

"For the reasons given, we think the course taken by the City of Los Angeles was the correct one. Until the Interstate Commerce Commission shall have acted under paragraphs 18 to 21 of Section 402 of the Transportation Act, the respondent railways can not be required to provide a new interstate union station and to extend their main tracks thereto as ordered by the State Railroad Commission."

II

At the time of the rendition of said decision by the United States Supreme Court, there was pending before the Interstate Commerce Commission a proceeding instituted by the City of Los Angeles against the railroads above named as defendants (Docket #14778) wherein the City of Los Angeles asked the said Interstate Commerce Commission, in the exercise of such power and jurisdiction as it had under the Transportation Act of 1920 and the Interstate Commerce Act, to find and declare that public necessity and convenience require the erection by the said defendant railroads of a union passenger station within the same area adjacent to the Plaza in the City of Los Angeles as the Railroad Commission of the State of California had previously fixed as the site for such union station, and to order said defendant carriers to proceed with the erection of such [fol. 150] union passenger station. At the same time there were also pending before said Interstate Commerce Commission certain proceedings instituted by the applications of the Southern Pacific and the Los Angeles & Salt Lake Railroad Company for authorization to establish a union passenger station for said two railroads at the site of the present Southern Pacific station at 5th Street and Central Avenue in the City of Los Angeles and to construct certain facilities and make certain changes in the trackage of said railroads incidental to the maintenance and operation of such union passenger station at 5th Street and Central Avenue.

Both this Honorable Commission and the petitioner herein appeared as parties in said proceedings before the Interstate Commerce Commission and submitted evidence

in support of the contention that public necessity and convenience require the erection of a union passenger station by all three of the defendants above named at the Plaza site.

III

On the 6th day of July, 1925, said Interstate Commerce Commission rendered its decision in said proceeding initiated by the complaint of the City of Los Angeles vs. Los Angeles & Salt Lake Railroad Company, et al., Docket No. 14778 and in said proceedings initiated by the application of the Southern Pacific Company and Los Angeles & Salt Lake Railroad Company, Finance Dockets Nos. 3556 and 3569, in which said Interstate Commerce Commission, among other things, found and declared:

"That the present and future public convenience and necessity require and will require (a) the extension by defendants of their respective main lines of steam railroad in the city of Los Angeles, Calif., so as to reach and properly serve any union passenger station and terminal within that portion of said city bounded by Commercial Street, North Main Street, Redondo Street, Alhambra Avenue and the Los Angeles River, which they or any of them may [fol. 151] construct and establish in accordance with a lawful order of the Railroad Commission of California, and (b) the extension of their respective main lines so as properly to provide for the rearrangement of passenger and freight routes incidental to the convenient and proper operation of such union passenger station and terminal."

And said Interstate Commerce Commission further stated:

"An order will be entered denying the application in Finance Docket No. 3569. We are not advised what action, if any, the Railroad Commission of California will take in connection with these matters, and under the existing circumstances we will issue no certificates or further orders at this time. We will retain jurisdiction of No. 14778 and Finance Docket No. 3556 for the purpose of making such further findings and orders and issuing such certificates as the record warrants. The findings and order now made are based upon the present record and upon the plans presented to us. If, in the development of a union passenger

terminal plan, the carriers or the Railroad Commission of California evolve a plan considerably more extensive than, or materially different from, a plan for a station within the Plaza area as here considered to be in the public interest, our ultimate findings as to the public convenience and necessity, and as to impairment of the carrier's ability to handle their own traffic and to perform their duties to the public, will of course be based upon a consideration of those facts rather than upon the present record."

IV

Petitioner alleges that no substantial change has occurred since the making of the said order by this Honorable Commission on the 6th day of December, 1921, nor since the making of the said order by the Honorable Interstate Commerce Commission on the 6th day of July, 1925, which would in any manner change or modify the conclusion that public convenience and necessity require the erection by said defendant railroads of a union passenger station within the Plaza area referred to and described in said decisions, but, on the contrary, petitioner alleges that public convenience and necessity require the construction by defendants of such union passenger station for the purpose of eliminating existing dangerous grade crossings and of providing adequate passenger facilities for the use and benefit of the traveling public of the city of Los Angeles [fol. 152] and surrounding communities.

Your petitioner believes that under the findings now made by the Interstate Commerce Commission and in accordance with the principles laid down by the United States Supreme Court in its decision above referred to this Honorable Commission now has jurisdiction to make such order or orders as may be justified by the evidence heretofore submitted and which may hereafter be submitted upon further hearing in this proceeding for the erection by said defendant railroads of a union passenger station within the Plaza site heretofore fixed by this Honorable Commission.

Wherefore petitioner prays that the Commission make its order re-opening this proceeding and setting the same for further hearing and that this Commission also make

such other or further orders as may be necessary or proper for the full consideration of all the issues heretofore considered in connection with the proposed erection by the defendant carriers of a union passenger station in the vicinity of the Plaza in the city of Los Angeles, and the elimination of such existing dangerous grade crossings in the city of Los Angeles as are incidental to the present operations of defendants' trains over the public streets in the City of Los Angeles and that upon the hearing and consideration of such evidence as may be presented, this Commission will make such order or orders as may be proper to require the erection by defendants of such union passenger station and the elimination of said existing dangerous grade crossings.

Central Development Association of Los Angeles, by F. W. Blanchard, President. Hugh Gordon, Attorney for Petitioner.

[fol. 153] *Duly sworn to by Hugh Gordon. Jurat omitted in printing.*

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[fol. 154] BEFORE RAILROAD COMMISSION OF CALIFORNIA

Case No. 971

[Title omitted]

ORDER REOPENING CASE FOR FURTHER PROCEEDINGS

By the COMMISSION:

Petition for a re-opening of this case having been filed by Central Deevlopment Association of Los Angeles, and good cause therefor appearing,

It is hereby ordered that said Case No. 971 be, and the same is hereby re-opened, and that a hearing upon said matter be had before this Commission en banc in the Court Room of the Commission, 810 Pacific Finance Building, Los Angeles, California, on Monday, the 30th day of November, 1925, at 10:00 a. m.

Dated at San Francisco, California, this 3rd day of October, 1925.

H. W. Brundige, C. L. Seavey, George D. Squires, Ezra W. Decoto, Leon O. Whitsell, Commissioners. (Seal.)

[fol. 155] BEFORE RAILROAD COMMISSION OF CALIFORNIA

Case No. 970

THE MUNICIPAL LEAGUE, a Voluntary Organization of the Citizens of the City of Los Angeles, State of California, Complainant,

vs.

THE SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA & SANTA FE Railway Company, and San Pedro, Los Angeles & Salt Lake Railroad Company, Defendants.

Case. No. 971

THE CENTRAL DEVELOPMENT ASSOCIATION OF LOS ANGELES, a Voluntary Organization of the Citizens of the City of Los Angeles, State of California, Complainant,

vs.

THE SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA & SANTA Fe Railway Company, San Pedro & Santa Fe Railway Company, San Pedro, Los Angeles & Salt Lake Railroad Company, Defendants

Case No. 972

THE CIVIC CENTER ASSOCIATION OF LOS ANGELES, a Corporation of the Citizens of the City of Los Angeles, State of California, Complainant,

vs.

THE SOUTHERN PACIFIC COMPANY, THE ATCHISON, TOPEKA, & Santa Fe Railway Company, San Pedro, Los Angeles & Salt Lake Railroad Company, Defendants

Case No. 974

THE CITY OF PASADENA, a Municipal Corporation, Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC Company, Atchison, Topeka and Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, and City of Los Angeles, Defendants.

Case No. 980

THE CITY OF ALHAMBRA, a Municipal Corporation, Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC Company, Atchison, Topeka & Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, and City of Los Angeles, Defendants

Case No. 981

THE CITY OF SAN GABRIEL, a Municipal Corporation, Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC Company, Atchison, Topeka & Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad [fol. 156] Company, and City of Los Angeles, Defendants

Case No. 983

THE CITY OF SOUTH PASADENA, a Municipal Corporation, Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC Company, Atchison, Topeka & Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, and City of Los Angeles, Defendants

Application No. 3346

In the Matter of the Application of SOUTHERN PACIFIC COMPANY and LOS ANGELES AND SALT LAKE RAILROAD COMPANY for Approval of Agreement for Joint Terminal Facilities in Los Angeles, California

Hugh Gordon for Central Development Association;
James H. Howard, City Attorney, and Roscoe R. Hess, Deputy City Attorney, for City of Pasadena;
C. W. Durbrow for Southern Pacific Company;

A. S. Halsted and Fred E. Pettit, Jr., for Union Pacific and Los Angeles & Salt Lake Railroad Company;

E. W. Camp for The Atchison, Topeka & Santa Fe Railway Company;

Frank Karr for Pacific Electric Railway Company;

Jess E. Stephens, City Attorney, Milton Bryan, Deputy City Attorney, and Max Thelen, Special Counsel, for City of Los Angeles;

H. H. Sanborn, A. B. Roehl and Spencer Thorpe for W. H. Daum, Intervenor;

H. R. Brashear for Los Angeles Chamber of Commerce;

George A. Damon for Regional Planning Commission and City Planning Association;

Will D. Gould for Northwest Association.

DECISION No. 18593

OPINION

By the COMMISSION:

The facts and issues primarily involved in these proceedings, together with the early history thereof, are to be found in our prior Decisions Numbers 8901 and 9838 herein, [fol. 157] and require no repetition here.

Action of State Supreme Court

Subsequent to the rendition of Decision 9838, writs of review were obtained from the California Supreme Court by The Atchison, Topeka and Santa Fe Railway Company, the San Pedro, Los Angeles and Salt Lake Railroad Company and the Southern Pacific Company, and on December 19, 1922, that Court annulled our said Decision No. 9838 upon the ground that, by reason of the enactment by Congress of certain amendments to the Interstate Commerce Act in 1920,

"Full power and authority over the matter of union terminal depot facilities of the rairoads who are largely engaged in interstate commerce * * * has been vested in the Interstate Commerce Commission under the terms of said amendatory act of 1920, and that by virtue thereof the Railroad Commission of California * * * has been divested of the power, authority and jurisdiction over that

subject, sought by it to be exercised in the several proceedings before it and by the order presented for review herein." (The A. T. & S. F. Ry. Co. vs. Railroad Commission, 190 Cal. 214; 211 Pac. 460.)

Action of United States Supreme Court

Affirming this result, but upon narrower grounds, the United States Supreme Court, in proceedings brought before it under writs of certiorari obtained by this Commission, declared, on April 7, 1924, that the only question before it was "whether the power to direct a new union station with its incidents is committed exclusively to the Interstate Commerce Commission under the Act of 1920", and held that:

"Until the Interstate Commerce Commission shall have acted under paragraphs 18 to 21 of section 402 of the Transportation Act, the respondent railways can not be required to provide a new interstate union station and to extend their main tracks thereto as ordered by the State Railroad Commission."

The Court further said that such action requires

"a certificate of the Interstate Commerce Commission as a [fol. 158] condition precedent to the validity of any action by the carriers or of any order by the State Commission."

together with a finding

"that the expense involved will not impair the ability of the carriers concerned to perform their duty to the public." (Railroad Commission vs. Southern Pacific Company, 264 U. S. 331; 68 L. ed. 713.)

Action of Interstate Commerce Commission

Subsequent to the rendition of the California Supreme Court's decision above mentioned, but prior to that of the United States Supreme Court, the City of Los Angeles filed with the Interstate Commerce Commission a petition asking that these carriers be required to erect a union passenger station in the City of Los Angeles substantially in the manner ordered by this Commission in its Decision No. 9838

(I. C. C. Docket No. 14,778). With reference to this action, the United States Supreme Court declared that the course pursued by the City of Los Angeles was correct. This Commission intervened on behalf of the City in said proceeding, and after lengthy hearings, the Interstate Commerce Commission, on July 6, 1925, issued its order.

Upon the rendition of the decision of the United States Supreme Court two other applications were filed with the Interstate Commerce Commission. In the first of these (Finance Docket No. 3556), the Southern Pacific Company and Southern Pacific Railroad Company sought authority to abandon main line train operation over a portion of their railroad along Alameda Street in Los Angeles. In the second (Finance Docket No. 3569), these companies and the Los Angeles and Salt Lake Railroad Company together sought from the Interstate Commerce Commission certificates of public convenience and necessity approving a plan for the joint use of the present Southern Pacific passenger station in Los Angeles (sometimes referred to as the "Arcade Station") by said companies substantially in the manner requested several years ago by these carriers in Application 3346 before this Commission, which application had [fol. 159] been dismissed by us in our Decision 9838 herein. In its Decision of July 6, 1925, above mentioned, the Interstate Commerce Commission found that public convenience and necessity does not require the construction proposed and described in this connection, and the application of these carriers involving authority to construct extensions looking toward such joint use of the said Southern Pacific Station (Finance Docket 3569) was denied.

Upon the issue presented by the complaint of the City of Los Angeles, however, the Interstate Commerce Commission declared that the service afforded by the present passenger stations of the Atchison, Topeka & Santa Fe Railway and Los Angeles and Salt Lake Railroad is "unreasonable and inadequate", and that the expenditure of considerable sums of money must at once be made in order to provide reasonable and adequate facilities in lieu thereof; that railroad service, except industrial freight-switching service, should be eliminated from Alameda Street, and that such action will force the Southern Pacific Company either to provide new means of access to its Arcade Station or to

abandon the same and provide other facilities, the expenditure of substantial sums of money being required on the part of this carrier in either event. The Interstate body then found that these carriers are in a position to provide reasonable and adequate station facilities, and that "the expense involved will not impair their ability to perform their duties to the public." Thus the first requirement of the United States Supreme Court was met.

We shall not here recount in detail the discussion of the Interstate Commerce Commission upon the general subject of a union passenger terminal in Los Angeles. Suffice it to say that that body approved the selection of a site for such a union passenger terminal within a described area near the Plaza in Los Angeles which had been made in our Decision No. 9838 herein, and, upon consideration of the evidence before it, and after a discussion of the advantages of such [fol. 160] a solution of this problem, it declared that, in its opinion, a union passenger terminal could be erected upon the said Plaza area in compliance without former order for a sum aggregating approximately $9,500,000.00 or at a new money cost of about $5,500,000.00. A large portion of this particular site is already owned by the Southern Pacific Company. The Interstate Commerce Commission further declared that future extensions or enlargements at the Arcade site would be considerably more expensive in its opinion that at the Plaza area, and it added that

"Adequate and convenient union passenger terminal facilities can be provided in the Plaza area at a considerably less net new money cost than less adequate and convenient facilities under applicant's Arcade plan, and for approximately the same net new money cost as a union passenger terminal of more questionable merit on the present Arcade site."

The Interstate Commerce Commission then made the following findings:

"1. That the present and future public convenience and necessity permit the abandonment of operation of all passenger and freight train service, except industrial freight-switching service, on the main line of the Southern Pacific on Alameda Street from College Street to East Fifteenth Street, inclusive, in the City of Los Angeles, Calif

"2. That neither the present nor future public convenience and necessity require or will require the construction or extension by applicants of new or existing main lines of railroad in the City of Los Angeles, Calif., as described in the application in Finance Docket No. 3569.

"3. That the present and future public convenience and necessity require and will require (a) the extension by defendants of their respective main lines of steam railroad in the City of Los Angeles, Calif., so as to reach and properly serve any union passenger station and terminal within that portion of said City bounded by Commercial Street, North Main Street, Redondo Street, Alhambra Avenue, and the Los Angeles River, which they or any of them may construct and establish in accordance with a lawful order of the Railroad Commission of California, and (b) the extension of their respective main lines so as properly to provide for the rearrangement of passenger and freight routes incidental to the convenient and proper operation of such union passenger station and terminal.

[fol. 161] "4. That the extensions referred to in the preceding paragraph are reasonably required in the interest of the public convenience and necessity, and that the expense involved therein will not impair the ability of defendants to perform their respective duties to the public.

"5. That, in addition to the abandonment of service on Alameda Street as above authorized, the present and future public convenience and necessity permit the abandonment by defendants of such portions of their respective main lines of steam railroad in the City of Los Angeles, Calif., or of the operation of all or any protion of the present interstate train service thereon as may be incidental to the rearrangement of passenger and freight routes, of tracks, and of terminal facilities, made necessary or proper in connection with the construction and establishment by defendants, in accordance with a lawful order of the Railroad Commission of California, of a union passenger station and terminal within that portion of said City described in paragraph 3 above.

"6. That the use by any defendant steam carriers of so much of the terminal main-line track or tracks of any of the other defendant steam carriers in the City of Los Angeles,

Calif., as may be incidental, and necessary or convenient, to the proper operation of any such union passenger station and terminal as defendants or any of them, in accordance with a lawful order of the Railroad Commission of California, may construct and establish in that portion of said city described in paragraph 3 above, is in the public interest and is practicable, without substantially impairing the ability of the carrier or carriers owning or entitled to the enjoyment of such track or tracks to handle its or their own business.

"An order will be entered denying the application in Finance Docket No. 3569. We are not advised what action, if any, the Railroad Commission of California will take in connection with these matters, and under the existing circumstances we will issue no certificates or further orders at this time. We will retain jurisdiction of No. 14778 and Finance Docket No. 3556 for the purpose of making such further findings and orders and issuing such certificates as the record warrants. The findings and order now made are based upon the present record and upon the plans presented to us. If, in the development of a union passenger terminal plan, the carriers or the Railroad Commission of California evolve a plan considerably more extensive than, or materially different from, a plan for a station within the Plaza area as here considered to be in the public interest, our ultimate findings as to the public convenience and necessity, and as to impairment of the carriers' ability to handle their own traffic and to perform their duties to the public, will of course be based upon a consideration of those facts rather than upon the present record."

Thus the Interstate Commerce Commission provided for compliance with the second requirement of the United States Supreme Court.

[fol. 162] Further Proceedings Before this Commission

Subsequent to the rendition of this decision, and upon request of certain of the parties to these proceedings, this Commission reopened the above-entitled matters for further consideration and determination. Hearings were had before the Commission sitting en banc; evidence was taken from a large number of interested persons dealing with the

subject from every angle, and voluminous briefs have been filed.

In view of our previous findings and order herein, and of the order and decision of the Interstate Commerce Commission relating to this matter, it would appear that in these re-opened proceedings the chief question before us is whether, since the rendition of our Decision No. 9838 herein, any facts have developed or any events have occurred of such a character as to justify action on our part reversing the position which we have heretofore taken in this matter.

At the hearings in the re-opened proceedings, after making certain technical objections to our jurisdiction to proceed further with these matters—which objections were overruled—the carriers again presented their plan for a solution of the passenger terminal problem in Los Angeles by the use of separate facilities, including the joint use of the Arcade station of the Southern Pacific Company by that Company and the Salt Lake Railroad Company, together with the erection of a new station on the part of the Santa Fe at its present passenger station site. While we have listened to this testimony and have received briefs dealing with the subject, it is our opinion that, in view of the action of the Interstate Commerce Commission in this matter, we could not now—even if we were so disposed—authorize or direct the execution of this plan. The proposal of the carriers, as presented to us in these re-opened proceedings, is in all essential respects similar to that formerly presented to us in Application 3346, heretofore [fol. 163] dismissed by us, and also to that presented to the Interstate Commerce Commission in Finance Docket 3569, which was denied. Except for slight changes in detail, and save for certain other minor changes in the proposed participation of the Pacific Electric Railway Company in the plan, it is the same as hereinbefore dismissed. Although in these reopened proceedings, we have given full opportunity for the production of all testimony desired to be offered in support of this plan for separated facilities, nothing, in our opinion, has been added to the record already before us in this connection which would impel us to reverse our former opinion as to this proposal. We will, therefore, again dismiss this application on the part of the carriers.

Since the date of our Decision 9838, certain of the dangerous grade crossings along the Los Angeles River have been and are being eliminated by means of the erection of viaducts crossing the river and the railroad tracks lying adjacent thereto and on both sides thereof, under and by virtue of orders issued by this Commission in a proceeding known as Application No. 9671 filed by the City of Los Angeles, County of Los Angeles, Atchison, Topeka & Santa Fe, Los Angeles and Salt Lake and Pacific Electric Railway companies. The Alameda Street grade crossings have not as yet been eliminated, nor has the Southern Pacific Company moved to eliminate main line train movements thereover—though conditions at these crossings are admittedly becoming worse day by day—save by again pressing before this Commission and the Interstate Commerce Commission the carriers' plan for separated facilities herein dismissed. Moreover, the Alameda Street situation has been somewhat changed and apparently aggravated by the interjection of certain Salt Lake trains using a portion of that street as a means of temporary access to the Arcade Station. Some freight movements have been transferred by the Southern Pacific Company from Alameda Street to the river bank tracks, but the evidence indicates that the situation along [fol. 164] that street as a whole in no less aggravated than it was at the time of our former order herein.

Much evidence was introduced by the carriers in these reopened proceedings dealing with certain proposed participation of the Pacific Electric Railway, an electric street and interurban carrier and Southern Pacific subsidiary, in the carriers' separated facilities plan. There were also presented a number of proposals for union passenger terminals in the City of Los Angeles differing to a greater or less degree from those hitherto filed herein, and located both within the so-called Plaza site or area, as defined in our Decision No. 9838 herein, and in other locations. Such proposals were presented by W. H. Daum, who filed a complaint against these carriers (Case No. 2177) praying for an order directing them to erect a union passenger depot at a site on the east bank of the Los Angeles River between Seventh and Ninth Streets; by the Municipal League of Los Angeles for a "twin station" with head bouses on each side of the River near Sixth Street; by Mr. George D. Hall for a union station to face a new Plaza at the junction of

Spring Street and Sunset Boulevard; by the Allied Architects' Association, through Mr. Charles H. Cheney, for a station with head house fronting on Temple Street and Los Angeles Street, with tracks extending north from Temple Street between Los Angeles and San Pedro Streets; by Mr. Joseph A. Stark for a station in an area bounded by Los Angeles, San Pedro, First and Market Streets, fronting on Los Angeles Street; by Mr. A. D. Austin for a station in an area bounded by First, Plaza, Main and Los Angeles Streets; and, after inquiry upon our part, a plan prepared in the offices of the carriers for a station within the Plaza area considerably greater in extent and different in character from those heretofore presented for a station within that area.

We have carefully considered the testimony adduced in favor of each of these several proposals, together with the [fol. 165] briefs filed in support thereof, and while some of these plans appear to possess certain merit, it is our opinion that in the case of none of them has evidence or argument been produced before us sufficient to justify us in reversing our findings and rulings heretofore entered herein and presented to and approved by the Interstate Commerce Commission.

In this connection we should state that further testimony was presented, both by the City of Los Angeles and by certain members of this Commission's staff, upon the question of the availability, accessibility and propriety of the Plaza area, as defined in our Decision No. 9838 herein, and in the Decision of the Interstate Commerce Commission in Docket 14,778, for a union passenger terminal station in Los Angeles. Much testimony was also adduced from various sources dealing with the probable cost of such a station. This testimony, in our opinion, fails to support the contention made on many occasions by the carriers that this plan involves the expenditure of "from twenty-five to forty-five millions of dollars". We find no basis in the evidence before us which would make possible such a contention, and we are of the opinion that the findings made by the Interstate Commerce Commission, as briefly outlined above, to the effort that an adequate union passenger terminal station, together with the necessary facilities for access thereto, can be constructed within this area for an amount

approximating $9,500,000.00, and at a net new money cost not to exceed approximately $5,500,000.00, are not subject to serious question. Much of the testimony brought before us in these reopened proceedings concerned a proposal for a union station in the Plaza area presented by Mr. George S. Hill of this Commission's staff. (Commission's Exhibit 4-b herein.) This proposal is identical in all essential respects to the plan suggested by Mr. Hill before the Interstate Commerce Commission, that body having had it before it as illustrative of the possibilities of the Plaza area.

[fol. 166] In its analysis of probable costs, the Interstate Commerce Commission has set forth its conviction that adequate passenger terminal facilities can be constructed by these carriers in this area, together with all necessary trackage connections and rearrangement, for a sum which it declares to be reasonable and proper. We find in the testimony before us no reason to doubt that the findings of probable cost so made by the Interstate Commerce Commission are correct, and we are of the opinion that adequate passenger terminal facilities can be erected upon this site for a cost of approximately $10,000,000 gross, and of approximately $5,500,000.00 net new money.

The Interstate Commerce Commission has made its findings definitely denying the application of the carriers to put into effect their plan for separated passenger terminal facilities, and it has also found that upon the rendition of a lawful order of this Commission requiring the erection of a union passenger depot within this area under plans not materially differing from those presented to it, it will issue its certificates in connection with these matters under the requirement of the decision of the United States Supremen Court.

We shall therefore enter herein an appropriate order. The effectiveness of our order herein will be specifically conditioned upon the promulgation by the Interstate Commerce Commission of such further certificates and findings as may be necessary or proper to authorize the construction, extensions and abandonment herein directed, it being our intent and purpose that the further findings and certificates mentioned by the Interstate Commerce Commission in its Decision in its Docket No. 14,778 and its Finance Docket No. 3556 be made prior to this order going into effect. We

will direct our Attorney to call this matter to the attention of the Interstate Commerce Commission by proper petition.

[fol. 167] Order

Complaints and an Application having been filed, as above entitled, said matters having been reopened for further hearing and determination, hearings having been had, testimony having been presented, briefs having been filed, the said matters having been submitted for decision, the Commission having considered said testimony and briefs, and being now fully informed in the premises, and basing its order upon the findings hereinbelow set forth and upon such other findings and statements of fact as are included in the Opinion herein:

It is hereby found as a fact:

(1) That the present and future public convenience and necessity permit the abandonment of operation of all passenger and freight train service, except industrial freight-switching service, on the main line of the Southern Pacific Company on Alameda Street from College Street to East Fifteenth Street, inclusive, in the City of Los Angeles.

(2) That neither the present nor future public convenience and necessity require or will require the construction or extension of new or existing main lines of railroad in the City of Los Angeles, as described in Application No. 3346 and in the record adduced herein.

(3) That the present and future public convenience and necessity require and will require (a) the extension by defendants in Cases Nos. 970, 971, 972, 974, 980, 981 and 983 of their main lines of steam railroad in the City of Los Angeles, so as to reach and properly serve a union passenger station and terminal within that portion of said City bounded by Commercial Street, North Main Street, Redondo Street, Alhambra Avenue, and the Los Angeles River, which they or any of them may construct and establish in accordance with our order herein, and (b) the extension of their respective main lines so as properly to provide for the rearrangement of passenger and freight [fol. 168] routes incidental to the convenient and proper operation of such union passenger station and terminal.

(4) That the extensions referred to in the preceding paragraph are reasonably required in the interest of the

public convenience and necessity, and that in our opinion the expense involved therein will not impair the ability of defendants to perform their respective duties to the public.

(5) That, in addition to the abandonment of service on Alameda Street as above authorized, the present and future public convenience and necessity permit the abandonment by defendants of such portions of their respective main lines of steam railroad in the City of Los Angeles, or of the operation of all or any portion of the present train service thereon as may be incidental to the rearrangement of passenger and freight routes, of tracks, and of terminal facilities, made necessary or proper in connection with the construction and establishment by defendants, in accordance with our order herein, of a union passenger station and terminal within that portion of said City described in paragraph three (3) above.

(6) That the use by any defendant steam carriers of so much of the terminal main-line track or tracks of any of the other defendant steam carriers in the City of Los Angeles, as may be incidental, and necessary or convenient, to the proper operation of any such union passenger station as defendants or any of them, in accordance with our order herein, may construct and establish in that portion of said City described in paragraph three (3) above, is in the public interest, and is practicable, without, in our opinion, impairing the ability of the carrier or carriers owning or entitled to the enjoyment of such track or tracks to handle its or their own business.

(7) That the present and future public convenience and necessity require and will require the construction by defendants, Southern Pacific Company, The Atchison, To-
[fol. 169] peka & Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and each of them, of a union passenger station within that portion of the City of Los Angeles described in paragraph three (3) above, together with such tracks, connections, and all other terminal facilities and additions, improvements or changes in the existing railroad facilities of said defendants as may be reasonably necessary, convenient or incidental to the use of said union passenger station.

(8) That, in our opinion, an adequate union passenger station can be constructed within the said described por-

tion of said City at a cost of approximately ten millions of dollars, in substantial compliance with the plan outlined in Commission's Exhibit No. 4-b herein, which said plan is hereby found to be in all essential respects similar to that certain plan for a union passenger station in said area considered by the Interstate Commerce Commission to be in the public interest in its Order and Decision of July 6, 1925, in its Docket No. 14,778, to which reference has been made hereinabove.

(9) That said plan for a union passenger station in said portion of said City, in our opinion, is and would be in the public interest and that its construction is practicable, without, in our opinion, impairing the ability of these carriers to perform their respective duties to the public.

(10) That said construction ought reasonably to be made.

Wherefore it is hereby ordered:

(1) That the defendants, Southern Pacific Company, The Atchison, Topeka & Santa Fe Railway Company, and the Los Angeles and Salt Lake Railroad Company, and each of them proceed to construct and thereafter operate a union passenger station within that portion of the City of Los Angeles bounded by Commercial Street, North Main Street, Redondo Street, Alhambra Avenue and the Los Angeles River, together with such tracks, connections, and all other terminal facilities and additions, extensions, improvements and changes in the existing railroad facilities of said Companies as may be reasonably necessary and in- [fol. 170] cidental to the use of said union passenger station, at a cost of approximately ten million dollars ($10,000,000), in substantial compliance with the plan outlined in Commission's Exhibit 4-b herein.

(2) Work upon the construction of said union passenger station shall commence within ninety (90) days after the effective date of this order, and shall be completed within three (3) years after said date.

(3) Upon and after the construction of said union passenger station the operation by defendant Southern Pacific Company of passenger and freight train service, excepting only industrial freight switching service during hours here-

inafter to be described by proper authority, over that portion of its railroad between College Street and East Fifteenth Street, inclusive, in the City of Los Angeles, shall be abandoned and discontinued.

This above Order shall be and become effective from and after the promulgation by the Interstate Commerce Commission of an order issuing and granting proper and sufficient certificates or other appropriate order or orders covering and authorizing the construction, extensions and abandonments herein authorized or directed, it being the intent of this Commission that the issuance of such certificates or other order or orders on the part of the Interstate Commerce Commission shall be and constitute a condition precedent to the effectiveness of the said Order of this Commission;

To which end,

It is hereby further ordered, that the Attorney of this Commission forthwith file with the Interstate Commerce Commission a copy of this Order, together with such appropriate petition or application as may be necessary in the premises, requesting and praying that the Interstate Commerce Commission issue such certificates or other appropriate order or orders as may be requisite or proper in order to render this Order effective.

[fol. 171] The Railroad Commission reserves the right to make such further order or orders in these proceedings relating to the Construction, operation, modification and abandonment of facilities, to costs and division of costs, and to all other matters relating thereto, as may be determined by the Commission to be just and reasonable and as public safety, convenience and necessity may require.

It is hereby further ordered, that Application No. 3346, as above entitled be and the same is hereby dismissed.

Dated at San Francisco, California, this 8th day of July, 1927.

Ezra W. Decoto, H. W. Brundige, C. L. Seavey, Leon O. Whitsell, Thos. S. Louttit, Commissioners.

Certified as a True Copy:

H. G. Mathewson, Secretary Railroad Commission of the State of California. (Seal.)

[fol. 172] BEFORE INTERSTATE COMMERCE COMMISSION

Los Angeles Passenger Terminal Cases

No. 14778[1]

CITY OF LOS ANGELES

v.

LOS ANGELES & SALT LAKE RAILROAD COMPANY et al.

Submitted November 17, 1927. Decided May 8, 1928

Upon Further Hearing of the Principal Complaint and of the Application in Finance Docket No. 3556

1. Conclusions of the original report, 100 I. C. C. 421, adhered to as to public convenience and necessity requiring the extension by defendants of their respective main lines or railroad in the city of Los Angeles, California, so as to reach and serve a union passenger station and terminal which they may construct in the Plaza district, pursuant to order of the Railroad Commission of the State of California to that effect, and the necessary extension of main lines and the abandonment of other portions of main lines to provide for incidental rearrangement of routes, and the abandonment of train service on Alameda Street; and such joint use is in the public interest and practicable, without impairing the ability of the carrier or carriers owning or entitled to the enjoyment of such track or tracks to handle their own business. Certificate issued accordingly. Application in No. 14778 for the issuance of an order requiring the defendants to construct a union station, denied.

2. Application in Finance Docket No. 3556, being withdrawn and abandoned, dismissed.

Jess E. Stephens, Max Thelen, and Milton Bryan for city of Los Angeles; Carl I. Wheat and Reginald L.

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[1]This report also embraces Finance Docket No. 3556, in the Matter of the Application of Southern Pacific Company and Southern Pacific Railroad Company for Certificate of Public Convenience and Necessity.

Vaughan for Railroad Commission of the State of California.

C. W. Durbrow, Frank Karr, A. S. Halsted, and E. W. Camp for defendants in No. 14778.

Frank Karr and C. W. Durbrow for applicants in Finance Docket No. 3556.

H. H. Sanborn for W. H. Daum, intervener.

## Report of the Commission on Further Hearing

[fol. 173] Aitchison, Commissioner:

The original report herein, adopted July 6, 1925, 100 I. C. C., 421, states the issues and the history of the litigation to that date. The matter is now before us, as will be shown, on petitions for final order filed by the city of Los Angeles, California and the Railroad Commission of the State of California, the answers of the defendant carriers thereto, and upon the further record, briefs, and oral argument thereon. In the instant proceeding we have before us Docket No. 14778, City of Los Angeles v. Los Angeles & Salt Lake Railroad Company et al., and Finance Docket No. 3556, In Re Application of Southern Pacific Company et al. for a certificate of public convenience and necessity. As will be shown, Finance Docket No. 3556 is before us upon the dismissal of the same by the applicants therein.

The issues presented by the complaint in No. 14778 were thus stated in the original report, 100 I. C. C. at page 422:

The city of Los Angeles is a municipal corporation of the State of California and complainant in No. 14778. Defendants are railroads engaged in interstate transportation of passengers and freight, and enter Los Angeles. The city asks that the commission direct defendants (1) to construct, operate, and use a union passenger depot with a defined area in that city, and to acquire land necessary therefor; (2) to abandon main-line passenger and freight service, except local freight switching, on and along a portion of Alameda Street in Los Angeles; (3) to eliminate and abandon certain railroad grade crossings in the city; and (4) to construct or acquire such structures, tracks, and facilities, to construct or abandon such lines or facilities of operation, and to arrange for such joint or other use of existing tracks, or tracks to be constructed within the city

of Los Angeles, as may be reasonably necessary and incidental as a part of and in furtherance of the foregoing. The only relief sought against defendant Pacific Electric Railway is the participation by it in the expense of constructing a viaduct at Aliso Street in Los Angeles to eliminate grade crossings on both banks of the Los Angeles River.

Finance Docket No. 3556, an application by Southern Pacific Company and its lessor, Southern Pacific Railroad Company, asked for a certificate of public convenience and necessity authorizing the abandonment of 0.15 miles of main-line track, and the abandonment of operation of passenger and freight train service (except freight switching service) on 6.6 miles of main-line track on Alameda Street, in Los Angeles.

The Railroad Commission of the State of California appeared in support of the complaint, as intervenor. Other interventions have been made for or against the complaint. [fol. 174] The somewhat involved history of the proceedings is set forth on pages 423 to 425 inclusive of our original report, and need not be restated in extenso. Briefly, the controversy originated in a complaint filed with the Railroad Commission of the State of California, which resulted in an order by that Commission for the elimination of certain specified railroad grade crossings along the Los Angeles River, and for the erection of a union passenger station at some site within a defined area in the vicinity of what is known as the Plaza in the City of Los Angeles, and upon the completion thereof for the railroads involved to remove all passenger and freight traffic except local-freight switching from a designated portion of Alameda Street. The Southern Pacific and the Los Angeles & Salt Lake presented to the California Commission their own plan for a joint station between those lines, known as the Arcade plan, which application after hearing was dismissed by the state Railroad Commission. The city of Los Angeles had previously taken no definite stand, but thereafter accepted the decision of the State Commission as determinative. Following a rehearing and certain modifications of the conclusions of the State Commission, which required the carriers to proceed to procure sufficient grounds for a union passenger station within a defined area, and to prepare and submit plans for a union station, and upon ap-

proval of the plans by the State Commission, to proceed with the construction of such station and terminal, and for the elimination of specified grade crossings, the State Commission's order was taken into the state courts of California. In Atchison, T. & S. F. Ry. Co. v. Railroad Commission, 190 Cal. 214, the order was held to be invalid, and the conclusion was sustained upon certiorari by the Supreme Court, R. R. Comm. v. Southern Pac. Co., 264 U. S. 331. Pending the review by the Supreme Court the complaint in No. 14778 was filed with us and heard, but it was not submitted until the Supreme Court had decided the case. After the Supreme Court's decision, the application in Finance Docket No. 3556 was filed, (with other applications not necessary here to be considered) and consolidated with No. 14778. The evidence previously received in the latter case was made available in the finance proceedings also. There was further hearing upon the consolidated cases, in June, 1924, followed by our report of July 6, 1925.

For convenient reference the findings made by us are reproduced in the margin.[1]

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[1]The findings, 100 I. C. C. 459, 461, are as follows:

Upon a consideration of all the facts of record we find:

1. That the present and future public convenience and necessity permit the abandonment of operation of all passenger and freight train service, except industrial freight-switching service, on the main line of the Southern Pacific on Alameda Street from College Street to East Fifteenth Street, inclusive, in the city of Los Angeles, Calif.

2. That neither the present nor future public convenience and necessity require or will require the construction or extension by applicants of new or existing main lines of railroad in the city of Los Angeles, Calif., as described in the application in Finance Docket No. 3569.

3. That the present and future public convenience and necessity require and will require (a) the extension by defendants of their respective main lines of steam railroad in the city of Los Angeles, Calif., so as to reach and properly serve any union passenger station and terminal within that portion of said city bounded by Commercial Street, North Main Street, Redondo Street, Alhambra Avenue, and the Los Angeles River, which they or any of them may construct

[fol. 175] Subsequent to our decision, the Railroad Commission of the State of California reopened the matters pending before it for further consideration and determination. A voluminous record was made. The testimony of many interested parties, including citizens and experts others than representatives of the city of Los Angeles and of the carriers, was taken. The parties before the State Commission are the defendants in No. 14778 before us.

By decision entered July 8, 1927, made part of the record herein, the California Commission exhaustively reviewed [fol. 176] the general situation. The findings of fact made are stated in Appendix 1. The state Commission thereupon ordered that the defendants, Southern Pacific Company, Atchison, Topeka & Santa Fe Railway Company, and Los Angeles & Salt Lake Railroad Company, and each of them proceed to construct and thereafter operate a union passenger station within that portion of the city of Los Angeles bounded by Commercial Street, North Main Street, Redondo Street, Alhambra Avenue, and the Los Angeles River, (being the general locality previously referred to in our report and the record as the Plaza District) together with such tracks, connections, and all other terminal facili-

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and establish in accordance with a lawful order of the Railroad Commission of California, and (b) the extension of their respective main lines so as properly to provide for the rearrangement of passenger and freight routes incidental to the convenient and proper operation of such union passenger station and terminal.

4. That the extensions referred to in the preceding paragraph are reasonably required in the interest of the public convenience and necessity, and that the expense involved therein will not impair the ability of defendants to perform their respective duties to the public.

5. That, in addition to the abandonment of service on Alamada Street as above authorized, the present and future public convenience and necessity permit the abandonment by defendants of such portions of their respective main lines of steam railroad in the city of Los Angeles, Calif., or of the operation of all or any portion of the present interstate train service thereon as may be incidental to the rearrangement of passenger and freight routes, of tracks, and of terminal facilities, made necessary or proper in connec-

ties and additions, extensions, improvements, and changes in the existing railroad facilities of the defendants as might be reasonably necessary and incidental to the use of such union passenger station, at a cost of approximately $10,000,000, in substantial compliance with the plan outlined in the State Commission's exhibit known as Exhibit B-4.[2] It further ordered that work upon the construction of such union station should commence within 90 days after the effective date of its order, and be completed within three years after said date. Provision is made that upon and after the construction of such union passenger station the operation by the Southern Pacific Company of passenger and freight train service, excepting only industrial freight —switching service during the hours hereafter to be prescribed by proper authority, over that portion of its railroad (upon Alameda Street) between College Street and East Fifteenth Street, inclusive, in the city of Los Angeles, shall be abandoned and discontinued.

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tion with the construction and establishment by defendants; in accordance with a lawful order of the Railroad Commission of California, of a union passenger station and terminal within that portion of said city described in paragraph 3 above.

6. That the use by any defendant steam carriers of so much of the terminal main-line track or tracks of any of the other defendant steam carriers in the city of Los Angeles, Calif., as may be incidental, and necessary or convenient, to the proper operation of any such union passenger station and terminal as defendants or any of them, in accordance with a lawful order of the Railroad Commission of California, may construct and establish in that portion of said city described in paragraph 3 above, is in the public interest and is practicable, without substantially impairing the ability of the carrier or carriers owning or entitled to the enjoyment of such track or tracks to handle its or their own business.

An order will be entered denying the application in Finance Docket No. 3569. We are not advised what action, if any, the Railroad Commission of California will take in

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[2] The plan submitted by the California Commission in the original hearing before us is essentially the same as that known as Exhibit B-4.

The order in express terms recites:

"This above order shall be and become effective from and after the promulgation by the Interstate Commerce Commission of an order issuing and granting proper and sufficient certificates or other appropriate order or orders covering and authorizing the construction, extensions, and abandonments herein authorized or directed, it being the intent of this Commission that the issuance of such certificates or of the order or orders on the part of the Interstate Commerce Commission shall be and constitute a condition precedent to the effectiveness of the said order of this Commission;"

[fol. 177] The State Commission therefore further ordered that its attorney forthwith file with us a copy of such order, together with appropriate petition or application requesting us to issue such certificates or other appropriate order or orders as may be requisite or proper in order to render the order of the State Commission effective.[3] The State

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connection with these matters, and under the existing circumstances we will issue no certificates or further orders at this time. We will retain jurisdiction of No. 14778 and Finance Docket No. 3556 for the purpose of making such further findings and orders and issuing such certificates as the record warrants. The findings and order now made are based upon the present record and upon the plans presented to us. If, in the development of a union passenger terminal plan, the carriers or the Railroad Commission of California evolve a plan considerably more extensive than, or materially different from, a plan for a station within the Plaza area as here considered to be in the public interest, our ultimate findings as to the public convenience and necessity, and as to impairment of the carrier's ability to handle their own traffic and to perform their duties to the public, will of course be based upon a consideration of those facts rather than upon the present record.

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[3]The State Commission made reservations of the right to make such further order or orders relating to construction, operation, modification, and abandonment of facilities and other matters as might be determined by it to be just and reasonable and as the public safety, convenience, and necessity may require.

Commission dismissed the application made by Southern Pacific Company and Los Angeles & Salt Lake Railroad Company for the approval of the construction of joint terminal facilities in Los Angeles, upon the lines of the Arcade plan proposed by those carriers to the State Commission as a substitute for the Plaza plan, so-called.

The California State Commission has filed with us its petition for final order. The prayer is that we issue such certificate or certificates and make and promulgate such further order or orders as may be proper or requisite in the premises to render effective the order of the California Commission, and for other appropriate relief. The petition of the city of Los Angeles for the issuance of certificates and the making of final order is somewhat more extensive than the petition of the California State Commission, but the relief sought is the same. It asks that we now issue the certificates and make the order specified in its petition, namely:

(1) Issue certificates in accordance with findings 1 to 6 in our report, 100 I. C. C. 459, 460.

(2) Order the defendants to construct and thereafter operate a union passenger station and appurtenances within the Plaza site * * * at a cost of approximately $10,000,000, in substantial compliance with the plan, Exhibit B attached to the petition; and

(3) Make such additional findings and orders, issue such further certificates, etc., as may be just and equitable and in the public interest.

The answers of the defendants to the petition of the California Commission are similar. They assert

(1) The unconstitutionality of the California statute and the procedure of the state commission thereunder,

(2) Deny that this Commission had fixed and adopted any area,

(3) Allege that the plan of the California Commission's order is not practicable, will be unreasonably expensive, will unreasonably interfere with other railroad operation,

particularly freight, and will not be in the interest of the public.

The defendants raise the constitutional issues as to the power of this Commission under the interstate commerce act.

[fol. 178] The answers to the petition of the city of Los Angeles are similar, with this qualification: they deny that our record is complete, and allege that subsequent to the rendition of decision by this Commission, nearly 3,000 pages of testimony and numerous and elaborate exhibits were introduced in the reopened proceedings before the Railroad Commission of California relating to matters which have not heretofore been submitted to or considered by us, which, it is alleged, show conclusively that it is not practicable to construct or operate a union passenger station in accordance with the plans and specifications referred to in the order of the California Railroad Commission.

Defendants therefore allege that it is essential that we give consideration to such evidence before rendering a decision and order herein.

The proceedings were set down by us for further hearing. Upon the further hearing, the record made and introduced before the Railroad Commission of the State of California, duly certified by it, was, by stipulation of all the parties, incorporated in the record herein, subject to the objections made during the course of the proceedings, and subject to the right of all parties to brief and argue the case as was made before us. This course, it may be observed, resulted in very considerable savings both of time and expense to the parties and the Government.

Finance Docket No. 3569 was heard and determined by us with the principal case, upon our former report. In it the Southern Pacific Company and the Los Angeles & Salt Lake sought authority to construct certain main new lines, and to extend their existing main lines so as to permit joint use and operation by them of the existing passenger station of the Southern Pacific, known as the Arcade site, hereinbefore referred to, and so as to permit the removal of Southern Pacific passenger and freight trains, except industrial switching, from Alameda Street. As appears by our former report, this application we denied. The

Southern Pacific and the Los Angeles & Salt Lake allege that the application in Finance Docket No. 3556 was filed in conjunction with and as complementary to Finance Docket No. 3569, but that the latter application having been denied, it becomes necessary to continue to operate service as heretofore, and therefore the applicants do not desire to abandon the lines or service described in the application in Finance Docket No. 3556, and therefore dismiss, abandon, and withdraw the application. At the present stage of these proceedings before us, the Arcade plan is therefore not within the issues. The only plan before us, it is agreed by the parties, is the Plaza plan, prepared by the Railroad Commission of California, and accepted and supported by the City of Los Angeles through its designated municipal offices, also known in the record as Exhibit 4-B before the California Commission.

It will be observed that our findings of fact in the original report, previously set out, are in effect duplicated by findings numbered 1 to 6 of the Railroad Commission of the State of California in its decision of July 8, 1927, as appears in Appendix No. 1 hereto. The State Commission in addition found (7) that the present and future public convenience and necessity require and will require the construction by defendants and each of them of a union pas- [fol. 179] senger station within that portion of Los Angeles described in the third finding, with the track and other facilities reasonably necessary, convenient, or incidental to the use of such passenger station; (8) that in its opinion an adequate union passenger station could be constructed within the described portion of the city at a cost of approximately $10,000,000, in substantial compliance with the plan outlined in its exhibit No. 4-B, which is found to be in all essential respects similar to the plan considered by us in our original decision and report; (9) that such plan for a union passenger station in the Plaza portion of Los Angeles in the opinion of the State Commission, is and would be in the public interest, and that its construction is practicable, without impairing the ability of the defendants to perform their respective duties to the public; and (10) that such construction ought reasonably to be made.

The matter before us presents questions of fact and of law.

The record before us is voluminous. It embraces the original and further hearing before us, and record made before the California commission after our original report. At the original hearing, by appropriate reference large portions of the record made in the original hearings together with voluminous exhibits before the State Commission were incorporated.

It would be easy to prolong this report into almost interminable length by undertaking detailed and meticulous examination of the facts disclosed of record. But they have been repeatedly subjected to scrutiny—first by the State Commission upon its original hearing and upon its rehearing, secondly in the original proceedings before us, and thirdly in the reopened proceedings before the State Commission. It seems, therefore, sufficient merely to state our general conclusions with respect to the sufficiency of the facts previously found by us, and those as found by the California Commission in its additional findings, previously set forth, and supported by the record. All of the testimony of record in the original proceeding before us was examined and given careful analysis in our original report. We adhere to the conclusions there expressed, upon a further consideration of the whole record, including the subsequently imported testimony taken before the California Commission. In our judgment, the findings of the California Commission numbered 7 to 10 inclusive, as appears in the appendix and as above summarized, find sufficient support in the record. We may therefore turn to the questions of law involved.

Coming first to those raised by the defendants: (1) Questions as to the constitutionality of the California statute and the procedure of the State Commission thereunder, certainly are not within our administrative purview at this state of the proceedings. (2) The objections made to the constitutionality of provisions of the Transportation Act 1920, under which we are vested with authority in certain instances to order the construction or extension of new lines and facilities of railroad carriers, need not now be discussed by us, in view of our determination upon the application by the complainant and the California State Commission for a mandatory order requiring such construction. (3) Complainants have again raised the question whether

[fol. 180] we have power to require the defendants to construct and operate a union passenger station upon the site heretofore specified in our findings. Their contention that we have such power was pressed with vigor upon the original submission before us. The complainants point to section 3, paragraph (3) and (4) of the interstate commerce act as furnishing the necessary statutory authority. As stated in the original report, at page 430, we concluded that we are not empowered to require the construction of a union passenger station as sought in No. 14778, under the issues framed in the complaint therein. In addition to the authorities previously brought to our attention, the complainant cites Breckenridge Chamber of Commerce v. W. F., R. & F. W. R. R. Co., 109 I. C. C. 81, in which, by Division 5, it was stated that under that portion of paragraph (3) of section 3 of the act which requires that all carriers shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, we have the power to deal with an issue as to the establishment of a switch connection between the tracks of railroads, and to make an affirmative order if warranted by the record. Pittsburgh and West Virginia Ry. Co. v. L. E., A. & W. R. R., 81 I. C. C. 333, was there cited as authority. In Alabama & Vicksburg Ry. Co. v. Jackson & Eastern Ry. Co., 271 U. S. 244, 250, the Supreme Court said:

"In matters relating to the construction, equipment, adaptation and use of interstate railroad lines, with the exceptions specifically set forth in paragraph (22), Congress has vested in the Commission the authority to find the facts and thereon to exercise the necessary judgment. The Commission's power under paragraph (3) of Sec. 3 to require the establishment of connections between the main lines of carriers was asserted by it in Pittsburgh & W. V. R. Co. v. Lake Erie, A. & W. R. Co., 81 I. C. C. 333, a case decided after the withdrawal by the Jackson & Eastern of its application to the Commission for leave to make the junction at Curran's Crossing, and in Chamber of Commerce v. Wichita Falls, R. & Ft. W. R. Co., 109 I. C. C. 81. That its jurisdiction is exclusive was held in People ex rel. New York C. R. Co. v. Public Service Commission, 233 N. Y. 113, 119-121. Compare Lake Erie, A. & W. R. Co. v. Public Utilities Commission, 109 Ohio St. 103."

The distinction between a simple switch connection such as was contemplated by the cases previously referred to, and the elaborate facilities sought to be required by us in the present case, is obvious. Re-examination of the whole subject again leads us to the conclusion that under existing law we are not empowered to require the construction of a union passenger station of the character sought by the complaint; but that we are authorized to find (1) whether the present or future public convenience and necessity permits of the proposed abandonment of line, (2) whether the proposed extensions of line are reasonably required in the interest of public convenience and necessity, and whether the expenses involved therein will impair the ability of defendants to perform their duties to the public, and (3) whether such joint use of existing terminal facilities by other than the owning carriers, as would be necessary if a new union passenger station were established in the Plaza area, is in the public interest and practicable, without substantially impairing the ability of the owning carrier to [fol. 181] handle its own business. These are the conclusions which we reached upon the original presentation.

All issues of fact having been considered and concluded by our original report and this report on further hearing, nothing remains for us but to deny the application of the city of Los Angeles and the intervener, the Railroad Commission of the State of California, for a final order herein requiring the construction of a station as found in the public interest; but in lieu thereof issue an appropriate certificate of public convenience and necessity conformable to the findings herein; and to dismiss the application in Finance Docket No. 3556. An appropriate certificate and order will be entered.

EASTMAN, Commissioner, concurring in part:

I am in accord with what is done in this case, except that I believe that we should enter the order which complainants seek requiring defendants to construct and operate the union station. From the standpoint of public policy I am inclined to the view that the power over such matters should rest with the States, subject to a limited supervision on our part under paragraph (18) of section 1. But it is by no means certain that such is the law, and there are

cogent reasons which, as I see it, justify us in entering the desired order.

The history of the case is significant. Complainants at first sought and obtained an order from the California commission. This was resisted by defendants, upon the ground that Congress had exclusively occupied the field and that the power to order rested with us. This view of the matter was accepted by the Supreme Court of California. Upon appeal the Supreme Court of the United States in R. R. Comm. v. Southern Pac. Co., 264 U. S. 331, stated the question before the court as follows:

Our only question here is whether the power to direct a new union station with its essential incidents is committed exclusively to the Interstate Commerce Commission under the Act of 1920.

It cannot be said that this question was clearly answered. The concluding paragraphs of the opinion were as follows:

We were advised by statements at the bar that, after the California Supreme Court handed down its decision in this case, the City of Los Angeles filed a petition with the Interstate Commerce Commission asking for an order to provide, maintain, and use a union station; that a hearing followed and that, pending the decision in this Court, the matter is held under consideration.

For the reasons given, we think the course taken by the City of Los Angeles was the correct one. Until the Interstate Commerce Commission shall have acted under paragraphs 18 to 21 of section 402 of the Transportation Act, the respondent railways cannot be required to provide a new interstate union station and to extend their main tracks thereto as ordered by the State Railroad Commission.

The judgment of the Supreme Court of California is affirmed.

[fol. 182] It will be noted that the court held that the City of Los Angeles, in asking us for an order to provide, maintain, and use a union station, took a correct course; and that it also affirmed the judgment of the California court, which had plainly held that "full power and authority over the matter of union terminal depot facilities of the rail-

roads which are largely engaged in interstate commerce, and who are the petitioners herein, has been vested in the Interstate Commerce Commission." However, the language immediately preceding this affirmation, with respect to action by us under paragraphs (18) to (21) of section 1 of the interstate commerce act, does lend itself to the interpretation which the majority place upon our powers, and there is other language in the opinion which is susceptible of such an interpretation.

The defendants have now shifted their position. In their brief before the Supreme Court they said that

> the sole and exclusive power to enter orders such as were entered by the California commission has been vested in the Interstate Commerce Commission by the amendments made to the Interstate Commerce Act in 1920.

Their position now is that Congress has indeed occupied the field in paragraph (3) of section 3, but that neither the State nor the Nation has power to enter an order requiring the construction of the station, and that our only power is to grant such certificates of convenience and necessity as may be required where a carrier is voluntarily proposing new station construction.

Whether or not we have the power to enter an order is not free from doubt, but I believe that from paragraph (21) of section 1 and paragraphs (3) and (4) of section 3 such power may be derived. Possibly no one of these paragraphs fully covers the ground, but they so supplement each other than when taken together their individual deficiencies disappear.

Paragraph (21) authorizes us to require a carrier "to provide itself with safe and adequate facilities for performing as a common carrier its car service as that term is used in this Act, and to extend its line or lines". The term "car service" is confined in the Act to service in the transportation of property, and therefore limits to that extent our authority to require a carrier to provide itself with "safe and adequate facilities". There is no similar limitation, however, upon our authority to require a carrier "to extend its line or lines". Under this paragraph, therefore, we clearly may require in the instant case such new

track construction as is involved in the union station project. But this leaves the station building unprovided for.

Paragraph (3) of section 3 makes it the duty of carriers, among other things, to "afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers or property to and from their several lines". It is this provision, as stated above, upon which defendants rely in contending that Congress has exclusively occupied the field in question. In our previous decision we assumed, without deciding, that this provision "makes it the duty of carriers to maintain union-station facilities in [fol. 183] a case where separate facilities would not be reasonable and proper", and I think that this assumption was correct. Apparently it is conceded by the carriers. However, our conclusion was that we have no authority to enter an order to enforce this duty. This conclusion was largely predicated upon United States v. Pennsylvania R. R. Co., 242 U. S. 208, a case which arose before the transportation act, 1920, and decided that we could not require defendant to provide and furnish oil tank cars. There we had chiefly relied upon our power under section 15 to prescribe just and reasonable "practices", and the court held that this word was too obscure to justify an order requiring a special type of tank cars to be provided. But the act, as it then existed, did make it the duty of carriers to furnish "such transportation" including by reference "cars and other vehicles and all instrumentalities of shipment or carriage", upon reasonable request therefor, and the court intimated that the jurisdiction to enforce this duty was in the courts and not in this Commission. By analogy this supports the position of the majority here, although it seems that the meaning of the word "practices" was the dominant feature of the case, and there is here no reliance upon section 15 or upon that word.

However, since our previous decision in this case, we have ourselves decided in Pittsburgh & West Virginia Ry. Co. v. L. E. A. & W. R. R., 81 I. C. C. 333, and in Chamber of Commerce, Breckenridge, Texas v. W. F., R. & F. W. R. Co., 109 I. C. C. 81, that we have the power to enforce by affirmative order the provisions of paragraph (3) of sec-

tion 3, and the Supreme Court has referred with approval to these cases in Alabama & Vicksburg Ry. Co. v. Jackson & Eastern Ry. Co., 271 U. S. 244. They related to the establishment of switch connections, and the majority here distinguished them by saying that the "distinction between a simple switch connection such as was contemplated by the cases previously referred to, and the elaborate facilities sought to be required by us in the present case is obvious". The logic of this is not clear. In our previous decision we held, upon authority of the Supreme Court decision in the tank-car case, that power to enforce paragraph (3) of section 3 is in the courts rather than in us. It now appears that so far, at least, as that paragraph requires switch connections, we can enforce it. But if we can enforce it in one of its aspects why not in all? There is nothing in the paragraph which distinguishes between little duties and big duties, or gives us power to enforce the one and not the other. Inasmuch as the Supreme Court has intimated that we can enforce paragraph (3) in one respect it follows necessarily, it seems to me, that we can enforce it in all respects.

Paragraph (4) of section 3 empowers us, if we find it to be practicable and in the public interest, to require the use of the terminal facilities of one carrier by another. Of this paragraph the Supreme Court said in R. R. Comm. v. Southern Pac. Co., supra:

> It gives to the Interstate Commerce Commission the power and duty, where the public interest requires, to make out of what is the passenger and freight station of one interstate carrier, a union station or depot.

[fol. 184] As I see it, the questions here with respect to this paragraph are: (1) Whether the authority can be exercised when no carrier is seeking such exercise, i. e. whether we can require a carrier against its will to condemn a part of the property of another; and (2) whether the power can be exercised to compel the use of property not in any carrier's possession? As for the first question, there is nothing in the language of the paragraph, or of the Supreme Court above quoted, to indicate that the authority of this paragraph can be invoked only upon petition of

some carrier, or that there must be at least one willing carrier. As for the second question, it was mentioned by the Supreme Court in the above-cited case. The court remarked that it was urged that

> the supervisory power thus conferred does not include the installation of an interstate union station, where its terminals and main tracks are newly built, and the interstate carriers are compelled to expropriate, not the terminal property of another interstate carrier, but property of others than carriers, not theretofore used for terminals,

and it went on to say:

> This would be giving power to the Interstate Commerce Commission to provide for a small and contracted union station of interstate carriers limited to the terms of one carrier, and would leave the larger and more important union stations of interstate carriers to the control of state commissions.

This comment, is seems to me, certainly does not suggest that we have no power the "larger and more important union stations". Moreover, complainants now point out that it has developed in the meantime that at least two-thirds of the property needed for the new station is already in the possession of the carriers, and that the expropriation of only a limited amount of private property will be necessary to round out the situation.

My conclusion is that, considering the various statutory provisions together, we probably have power to enter the desired order. But this is not the only reason for such action. Certainly a conclusion that we have no power to enter an order is at least subject to much doubt. Certainly, also, the carriers propose to litigate this case as long and as vigorously as they can. The least possible delay in determining legal questions and arriving at an end of litigation will result, I believe, if we, as well as the State commission, enter an order: This aspect of the matter was strongly and persuasively presented by complainants. In view of the manifest uncertainly as to what the law is, it is a course which we are quite justified in following and the one which is most likely to result in a needed clarification of the law.

I am authorized to state that Commissioners Lewis and McManamy join in this expression.

[fol. 185] BRAINERD, Commissioner, dissenting:

In this case certificates of public necessity and convenience are proposed to be issued upon complaint by the City of Los Angeles and others, not upon the application of any carrier, and in fact over the objection and protest of all the defendant carriers. Paragraphs (18) to (21) of section 1, it seems to me, relate to rights sought to be exercised by the carriers. That they deal primarily with such rights in certain. C. C. C. & St. L. v. U. S., 72 L. Ed., 166, 168. For this reason, and for the further reason that our action fails, it seems to me, to give due consideration to the necessity for the economical management of existing transportation facilities, I dissent from the report herein.

## Certificate and Order

AT A GENERAL SESSION OF THE INTERSTATE COMMERCE COMMISSION, HELD AT ITS OFFICE, IN WASHINGTON, D. C., ON THE 8TH DAY OF MAY, A. D. 1928.

Los Angeles Passenger Terminal Cases

No. 14778

Abandonment of Line by SOUTHERN PACIFIC CO. and SOUTHERN PACIFIC R. R. CO.

Finance Docket No. 3556

A further hearing and investigation of the matters and things involved in these proceedings having been had, and the commission having, on the date hereof, made and filed a report on further hearing containing its findings of fact and conclusions thereon, and having on July 6, 1925, filed its original report herein, 100 I. C. C. 421, which said reports are hereby referred to and made a part hereof:

It is hereby, certified, That the present and future public convenience and necessity (1) require the construction by the Los Angeles & Salt Lake Railroad Company, the Southern Pacific Company, and the Atchison, Topeka & Santa Fe Railway Company of extensions of their respective

main lines of railroad in the city of Los Angeles, Calif., so as to reach and serve a union passenger station and terminal which they may construct in the Plaza district, pursuant to the order of the Railroad Commission of the State of California to that effect; (2) require the construction of the necessary extensions of their main lines, and permit the abandonment of such other portions of their main lines, as may be necessary to provide for the rearrangement of passenger and freight routes incidental to the convenient and proper operation of such union passenger station and terminal; (3) permit the abandonment of opera-
[fol. 186] tion of all passenger and freight train service, except industrial freight-switching service, on the main line of the Southern Pacific on Alameda Street from College Street to East Fifteenth Street, inclusive, in the city of Los Angeles, Calif.; and (4) require the use by any defendant steam carriers of so much of the terminal main-line track or tracks of any of the other defendant steam carriers in the city of Los Angeles, Calif., as may be incidental, and necessary or convenient, to the proper operation of such union passenger station and terminal.

It is ordered, That the applications in No. 14778, in so far as they seek an order requiring the construction of a union passenger station and terminal in Los Angeles, Calif., be, and it is hereby, denied.

And it is further ordered, That the joint application of the Southern Pacific Company and the Southern Pacific Railroad Company in Finance Docket No. 3556 be, and it is hereby, dismissed.

By the commission.

George B. McGinty, Secretary. (Seal.)

[fol. 187] Appendix No. 1

The findings of fact by the Railroad Commission of the State of California are as follows:

(1) That the present and future public convenience and necessity permit the abandonment of operation of all passenger and freight train service, except industrial freight-switching service, on the main line of the Southern Pacific Company on Alameda Street from College Street to East Fifteenth Street, inclusive, in the City of Los Angeles.

(2) That neither the present nor future public convenience and necessity require or will require the construction or extension of new or existing main lines of railroad in the City of Los Angeles, as described in Application No. 3346 and in the record adduced herein.

(3) That the present and future public convenience and necessity require and will require (a) the extension by defendants in Cases Nos. 970, 971, 972, 974, 980, 981 and 983 of their main lines of steam railroad in the City of Los Angeles, so as to reach and properly serve a union passenger station and terminal within that portion of said city bounded by Commercial Street, North Main Street, Redondo Street, Alhambra Avenue, and the Los Angeles River, which they or any of them may construct and establish in accordance with our order herein, and (b) the extension of their respective main lines so as properly to provide for the rearrangement of passenger and freight routes incidental to the convenient and proper operation of such union passenger station and terminal.

(4) That the extensions referred to in the preceding paragraph are reasonably required in the interest of the public convenience and necessity, and that in our opinion the expense involved therein will not impair the ability of defendants to perform their respective duties to the public.

(5) That, in addition to the abandonment of service on Alameda Street as above authorized, the present and future public convenience and necessity permit the abandonment by defendants of such portions of their respective main lines of steam railroad in the City of Los Angeles, or of the operation of all or any portion of the present train service thereon as may be incidental to the rearrangement of passenger and freight routes, of tracks, and of terminal facilities, made necessary or proper in connection with the construction and establishment by defendants, in accordance with our order herein, of a union passenger station and terminal within that portion of said city described in paragraph three (3) above.

(6) That the use by any defendant steam carriers of so much of the terminal main-line track or tracks of any of the other defendant steam carriers in the City of Los An-

geles, as may be incidental, and necessary or convenient, to the proper operation of any such union passenger station as defendants or any of them, in accordance with our order herein, may construct and establish in that portion of said city described in paragraph three (3) above, is in the public interest and is practicable, without in our opin- [fol. 188] ion, impairing the ability of the carrier or carriers owning or entitled to the enjoyment of such track or tracks to handle its or their own business.

(7) That the present and future public convenience and necessity require and will require the construction by defendants, Southern Pacific Company, The Atchison, Topeka & Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and each of them of a union passenger station within that portion of the City of Los Angeles described in paragraph three (3) above, together with such tracks, connections, and all other terminal facilities and additions, improvements or changes in the existing railroad facilities of said defendants as may be reasonably necessary, convenient or incidental to the use of said union passenger station.

(8) That, in our opinion, an adequate union passenger station can be constructed within the said described portion of said city at a cost of approximately ten millions of dollars, in substantial compliance with the plan outlined in Commission's Exhibit No. 4-b herein, which said plan is hereby found to be in all essential respects similar to that certain plan for a union passenger station in said area considered by the Interstate Commerce Commission to be in the public interest in its order and decision of July 6, 1925, in its Docket No. 14,778, to which reference has been made hereinabove.

(9) That said plan for a union passenger station in said portion of said city, in our opinion, is and would be in the public interest and that its construction is practicable, without, in our opinion, impairing the ability of these carriers to perform their respective duties to the public.

(10) That said construction ought reasonably to be made.

[fol. 189] BEFORE RAILROAD COMMISSION OF CALIFORNIA

DECISION No. 19810

Case No. 970

THE MUNICIPAL LEAGUE, a Voluntary Organization of the Citizens of the City of Los Angeles, State of California, Complainant,

v.

THE SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, and SAN PEDRO, LOS ANGELES & SALT LAKE RAILROAD COMPANY, Defendants

Case No. 971

THE CENTRAL DEVELOPMENT ASSOCIATION OF LOS ANGELES, a Voluntary Organization of the Citizens of the City of Los Angeles, State of California, Complainant,

v.

THE SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES & SALT LAKE RAILROAD COMPANY, Defendants

Case No. 972

THE CIVIC CENTER ASSOCIATION OF LOS ANGELES, a Corporation of the Citizens of the City of Los Angeles, State of California, Complainant,

v.

THE SOUTHERN PACIFIC COMPANY, THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES & SALT LAKE RAILROAD COMPANY, Defendants

Case No. 974

THE CITY OF PASADENA (a Municipal Corporation), Complainant,

v.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES & SALT LAKE RAILROAD COMPANY, and CITY OF LOS ANGELES, Defendants

Case No. 980

THE CITY OF ALHAMBRA (a Municipal Corporation), Complainant,

v.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES & SALT LAKE RAILROAD COMPANY, and CITY OF LOS ANGELES, Defendants

Case No. 981

THE CITY OF SAN GABRIEL (a Municipal Corporation), Complainant,

v.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES & SALT LAKE RAILROAD COMPANY, and CITY OF LOS ANGELES, Defendants

[fol. 190] Case No. 983

THE CITY OF SOUTH PASADENA (a Municipal Corporation), Complainant,

v.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES & SALT LAKE RAILROAD COMPANY, and CITY OF LOS ANGELES, Defendants

Application No. 3346

In the Matter of the Application of SOUTHERN PACIFIC COMPANY and LOS ANGELES & SALT LAKE RAILROAD COMPANY for Approval of Agreement for Joint Terminal Facilities in Los Angeles, California

ORDER DENYING REHEARING

By the COMMISSION:

Petitions for rehearing with respect to matters determined in the above entitled proceedings by our Order dated

July 8, 1927, having been filed by The Atchison, Topeka & Santa Fe Railway Company, Southern Pacific Company, Southern Pacific Railroad Company, and Los Angeles and Salt Lake Railroad Company; the Commission having considered the said petitions for rehearing, and each and every allegation contained therein, and being of the opinion that no good cause for a rehearing is therein made to appear,

Now, therefore, it is hereby ordered that the said petitions for rehearing be and the same are hereby severally denied.

Dated at San Francisco, California, this 26th day of May, 1928.

Leon O. Whitsell, C. L. Seavey, Ezra W. Decoto, Thos. S. Louttit, W. J. Carr, Commissioners.

Certified as a true copy.

H. G. Mathewson, Secretary Railroad Commission, State of California. (Seal.)

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[fol. 191] [File endorsement omitted]

IN SUPREME COURT OF CALIFORNIA

[Title omitted]

PETITION FOR WRIT OF REVIEW—Filed June 19, 1928

To the Honorable William H. Waste, Chief Justice, and the Associate Justices of the Supreme Court of the State of California:

Your petitioners above named respectfully represent:

I

That at all the times herein mentioned your petitioner Southern Pacific Company has been, and now is, a corporation created and existing under and by virtue of laws of the State of Kentucky; and that your petitioner Southern Pacific Railroad Company has been at all the times herein mentioned, and now is, a corporation incorporated and consolidated under the laws of the states of California, Arizona and New Mexico.

Southern Pacific Railroad Company is the owner of certain lines of steam railroads extending through the city of Los Angeles from its termini in the state of California through the states of Arizona and New Mexico to the Rio Grande River in the state of New Mexico, and that said [fol. 192] lines of railroad so owned by Southern Pacific Railroad Company are leased to and operated by Southern Pacific Company as a common carrier for hire for the carriage of freight and passengers in intrastate commerce in the state of California and interstate and foreign commerce from and to and through points in the state of California, including the city of Los Angeles in said state. Said lines of railroad form a component, integral and essential part of an interstate system of steam railroads connected one with the other acquired, owned and held by Southern Pacific Railroad Company, and maintained and operated by Southern Pacific Company as a unit and as an interstate system for the transportation of freight and passengers in interstate and intrastate commerce within and through the states of Oregon, California, Nevada, Utah, Arizona and New Mexico, and are operated as a system for the transportation of freight and passengers in interstate commerce between and among said last mentioned states, said lines extending through the city of Los Angeles, State of California, and that said lines of railroad and said petitioners are, and each of them is, and have been, during all the times hereinafter mentioned subject to the jurisdiction of the government of the United States and of the Interstate Commerce Commission, in accordance with the provisions of the Act to Regulate Commerce, approved February 4, 1887, and amendments thereto.

That Southern Pacific Railroad Company joins as a party in this petition with Southern Pacific Company because it is pecuniarily interested, and its property rights are affected by the decisions and orders made and entered by respondents as hereinafter alleged and because as owner of the terminal facilities at the city of Los Angeles operated by said Southern Pacific Company under said lease, as aforesaid, it will suffer detriment and irreparable damage and great financial loss in the event said decisions and orders are made effective.

[fol. 193] That respondents, Leon O. Whitsell, C. L. Seavey, Ezra W. Decoto, Thos. S. Louttit, and W. J. Carr are the duly appointed, qualified and acting members of the Railroad Commission of the state of California.

II

That your petitioners hereby apply to the Supreme Court of the state of California for a writ of review for the purpose of having the lawfulness of a certain order and decision of the Railroad Commission of the state of California inquired into and determined, the order and decision being that certain order and decision issued by the Railroad Commission of the state of California under date of July 8, 1927, designated as Decision No. 18,593, a copy of which order is hereto attached and marked Exhibit "A," and made a part hereof, in the consolidated cases entitled The Municipal League v. Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and San Pedro, Los Angeles and Salt Lake Railroad Company, Case No. 970; Central Development Association of Los Angeles v. Southern Pacific Company, The Atchison Topeka and Santa Fe Railway Company and San Pedro, Los Angeles and Salt Lake Railroad Company, Case No. 971; Civic Center Association of Los Angeles v. Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and San Pedro, Los Angeles and Salt Lake Railroad Company, Case No. 972; City of Pasadena v. Pacific Electric Railway Company, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company and City of Los Angeles, Case No. 974; City of Alhambra v. Pacific Electric Railway Company, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company and City of Los Angeles, Case No. 980; City of San Gabriel v. Pacific Electric Railway Company, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, San Pedro, Los Angeles and [fol. 194] Salt Lake Railroad Company, and City of Los Angeles, Case No. 981; City of South Pasadena v. Pacific Electric Railway Company, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company,

San Pedro, Los Angeles and Salt Lake Railroad Company, and City of Los Angeles, Case No. 983; and the Matter of the application of Southern Pacific Railroad Company, Southern Pacific Company, and Los Angeles and Salt Lake Railroad Company for approval of agreement for joint terminal facilities in Los Angeles, California, Application No. 3346.

The issuance of said writ of review is hereby prayed for by your petitioners for the purpose of determining whether said Railroad Commission has regularly pursued its authority in the making of said order and decision, and whether said Railroad Commission is vested with power and authority to enter said order and decision, including the determination as to whether said order and decision violates any right of petitioners under the Constitution or laws of the United States or of the state of California.

III

That heretofore to-wit: On the 3rd day of July, 1916, complaints were filed with the said Railroad Commission by the Municipal League, Central Development Association, Civic Center Association of Los Angeles, praying for the elimination of certain railroad grade crossings within the city of Los Angeles; and the establishment of a union passenger station in said city; and thereafter complaints were filed by the city of Pasadena; city of Alhambra, city of San Gabriel and city of South Pasadena, praying for an order requiring carriers named to make certain changes specified in said complaints with reference to grade crossings, and praying an order of the Commission rescinding an order, previously entered by the Commission, establishing an interlocking plant at Aliso Street and Los Angeles river.

Thereafter, to-wit, on November 22, 1917, Southern Pacific Railroad Company, and Los Angeles & Salt Lake Rail- [fol. 195] road Company filed an application with said Commission for an order approving an agreement executed by the said applicants under date of July 18, 1917, providing for the joint use and operation of the passenger station owned by Southern Pacific Railroad Company and operated by Southern Pacific Company in said City of Los Angeles, and providing for the joint use of tracks and

terminal facilities of applicants, and providing for the elimination of grade crossings in said city of Los Angeles.

That thereafter said Railroad Commission ordered that the several cases hereinbefore specified in paragraph II hereof be consolidated and said Railroad Commission on its own motion ordered a general investigation thereof to be made.

IV

That thereafter, to-wit, on the 26th day of April, 1921, after public hearings, the Commission rendered its decision and order No. 8901 hereinabove referred to and hereto attached, marked Exhibit "B." and made a part hereof.

V

That thereafter, to-wit, on the 10th day of May, 1921, and within the time provided by law, your petitioners filed with the said Railroad Commission a petition for rehearing in said cases, No. 8901, a copy of which is hereto attached, marked Exhibit "C" and made a part hereof,

VI

That thereafter a rehearing of the said decision and order theretofore rendered by said Commission was had and thereafter to-wit, on the 6th day of December, 1921, said Commission rendered its opinion and order on said rehearing, designated as Decision No. 9838, a copy of which is attached hereto, marked Exhibit "D," and made a part hereof.

VII

That thereafter, to-wit, on the 17th day of December, [fol. 196] 1921, and within the time provided by law, your petitioners filed with said Railroad Commission a petition for rehearing in said cases, Decision No. 9838, a copy of which is hereto attached, marked Exhibit "E," and made a part hereof.

That thereafter, to-wit, on the 28th day of December, 1921, a decision and order was rendered by said Commission in said cases, denying said petition for rehearing.

VIII

That thereafter, to-wit, on or about the 5th day of January, 1922, your petitioners filed with your Honorable Court their petition for writ of review, which writ was issued January 7, 1922, returnable February 6, 1922.

That thereafter your Honorable Court reviewed said order of the California Railroad Commission, and on the 19th day of December 1922, annulled said decisions No. 8901 and No. 9838 of the Railroad Commission of the state of California.

IX

That thereafter on the 3rd day of October, 1925, the Railroad Commission of the State of California ordered that said Cases 970, 971, 972, 974, 980, 981, 983, and Application 3346 be reopened for further consideration, and that further hearing be had before the Commission.

That thereafter, to-wit, on the 8th day of July, 1927, after public hearings, the Railroad Commission of the state of California rendered its decision and order No. 18,593 hereinabove referred to and hereto attached, marked Exhibit "A," and made a part hereof.

That thereafter, to-wit, on the 18th day of July, 1927, and within the time provided by law, your petitioners filed with said Railroad Commission of the state of California, an application for rehearing in said cases, in words and figures as follows, to-wit:

[fol. 197] "Before the Railroad Commission of the State of California

Case No. 970

The Municipal League, a Voluntary Organization of the Citizens of the City of Los Angeles, State of California, Complainant,

vs.

The Southern Pacific Company, Atchison, Topeka & Santa Fe Railway Company, and San Pedro, Los Angeles & Salt Lake Railroad Company, Defendants

Case No. 971

THE CENTRAL DEVELOPMENT ASSOCIATION OF LOS ANGELES, a Voluntary Organization of the Citizens of the City of Los Angeles, State of California, Complainants,

vs.

THE SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA & Santa Fe Railway Company, San Pedro & Santa Fe Railway Company, San Pedro, Los Angeles & Salt Lake Railroad Company, Defendants

Case No. 972

THE CIVIC CENTER ASSOCIATION OF LOS ANGELES, a Corporation of the Citizens of the City of Los Angeles, State of California, Complainant,

vs.

THE SOUTHERN PACIFIC COMPANY, THE ATCHISON, TOPEKA & Santa Fe Railway Company, San Pedro, Los Angeles & Salt Lake Railroad Company, Defendants

Case No. 974

THE CITY OF PASADENA, a Municipal Corporation, Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC Company, Atchison, Topeka and Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, and City of Los Angeles, Defendants

Case No. 980

THE CITY OF ALHAMBRA, a Municipal Corporation, Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC Company, Atchison, Topeka and Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, and City of Los Angeles, Defendants

Case No. 981

THE CITY OF SAN GABRIEL, a Municipal Corporation, Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC Company, Atchison, Topeka and Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, and City of Los Angeles, Defendants

[fol. 198] Case No. 983

THE CITY OF SOUTH PASADENA, a Municipal Corporation, Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC Company, Atchison, Topeka & Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, and City of Los Angeles, Defendants

Application No. 3346

In the Matter of the Application of SOUTHERN PACIFIC COMPANY and LOS ANGELES AND SALT LAKE RAILROAD COMPANY, for Approval of Agreement for Joint Terminal Facilities in Los Angeles, California

Application for Rehearing by Southern Pacific Company and Southern Pacific Railroad Company

Southern Pacific Company, a corporation created and existing under and by virtue of the laws of the State of Kentucky, and Southern Pacific Railroad Company, a corporation organized, existing and consolidated under the laws of the States of California, Arizona and New Mexico, respectfully petition the Railroad Commission of the State of California to grant a rehearing in the above entitled matter, upon the following grounds:

I

Southern Pacific Railroad Company is the owner of certain lines of steam railroads extending through the City

of Los Angeles from its termini in the State of California through the States of Arizona and New Mexico to the Rio Grande River in the State of New Mexico, and that said lines of railroad so owned by Southern Pacific Railroad Company are leased to and operated by Southern Pacific Company as a common carrier for hire for the carriage of freight and passengers in intrastate commerce in the State of California, and interstate and foreign commerce from and to and through points in the State of California, including the City of Los Angeles, in said State. Said lines of railroad form a component, integral and essential part of an interstate system of steam railroads, connected one with the other, acquired, owned and held by Southern [fol. 199] Pacific Railroad Company and maintained and operated by Southern Pacific Company as a unit and as an interstate system for the transportation of freight and passengers in interstate and intrastate commerce within and through the States of Oregon, California, Nevada, Utah, Arizona and New Mexico, and are operated as a system for the transportation of freight and passengers in interstate commerce between and among said last mentioned States, and said lines extending through the city of Los Angeles, State of California, and that said lines of railroad and said petitioners are, and each of them is, and have been, during all the times hereinafter mentioned, subject to the jurisdiction of the Interstate Commerce Commission, in accordance with the provisions of the Interstate Commerce Act.

That the Commission's decision and order entered in the above entitled matters are beyond the power which the Railroad Commission of the State of California could constitutionally exercise, and is in contravention of and repugnant to Section 8 of Article 1 of the Constitution of the United States.

That said decision and order are beyond statutory power which has been confided to the State Commission by the State of California and the Public Utilities Act passed by the legislature of the State of California.

The Commission's decision and order are predicated upon a mistake of law for the reasons hereinafter alleged.

The Commission's decision and order are not supported by the evidence, but are contrary to the evidence, and the findings and conclusions of the Commission, upon which

the decision and order are predicated, are, therefore, without foundation, contrary to the law and void.

That said decision and order, if permitted to become effective, will confiscate your petitioners' property and deprive them of their property without due process of law, [fol. 200] and deny them the equal protection of the law, contrary to the provisions of the 5th and 14th Amendments to the Constitution of the United States.

II

The provisions of said decision and order requiring these applicants, and their co-defendant carriers, to-wit, The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, to make and construct a Union passenger station within that portion of the City of Los Angeles bounded by Commercial Street, North Main Street, Redondo Avenue, Alhambra Avenue and the Los Angeles River, together with such tracks, connections, and all other terminal facilities and additions, extensions, improvements and changes in the existing railroad facilities of these applicants and their co-defendants as may be reasonably necessary and incidental to the use of said Union Passenger Station, at a cost of approximately $10,000,000.00, in substantial compliance with plan outlined in Commission's Exhibit 4-B herein, are unlawful; and that the requirements of said order that defendant Southern Pacific Company perform or aid in the performing of such work, or any thereof, are unlawful and void.

That the provisions of said decision and order requiring these applicants, and their co-defendant carriers, to commence work upon the construction of said Union Passenger Station within ninety days after the effective date of said order, and complete the same within three years after said date, are unlawful.

That the provisions of said decision and order requiring these applicants, upon and after the construction of said Union Passenger Station, to abandon and discontinue the operation of passenger and freight service, excepting only industrial freight switching service over that portion of its railroad between College Street and East 15th Street, inclusive in the City of Los Angeles, are unlawful and void.

That the present passenger station and passenger facili-

[fol. 201] ties of these applicants fully meet the requirements of the public and are adequate for that purpose; there is no evidence that such facilities are inadequate; and said decision and order, in paragraph (1) (p. 17) thereof, requiring or purporting to require the Southern Pacific Company in conjunction with other carrier defendants to acquire additional land, much of which is held by the City of Los Angeles and dedicated to public streets and municipal purposes, and the construction thereon of a union passenger station and buildings incidental thereto, is unlawful.

That said decision and order are further unlawful and against the law in this; that in and by said decision and order, and in and by the necessary force and effect thereof, the State of California through the California Railroad Commission, by the requirement that Southern Pacific Company share the use of these applicants' railroad terminal facilities and their main line track or tracks for a reasonable distance beyond their said terminal, with another and other or other railroad carriers, and by the requirement that the said carrier co-defendants of these applicants share with applicants the use of said carrier defendants' railroad terminal facilities and their main line track or tracks for a reasonable distance beyond their said terminals without compensation for the property so taken and appropriated and for the damage to their and each of their remaining terminal facilities and property and business not taken but which constitutes a part of the property so taken and used, is beyond the jurisdiction of the Railroad Commission of the State of California, and is taking from these applicants their property for public use without compensation, contrary to the Fifth and Fourteenth Amendments to the Constitution of the United States, and contrary to the provisions of the Constitution of the State of California, and deprives these applicants of their property without due process of law, and denies to these applicants the equal protection of the law, contrary to the provisions of the [fol. 202] Constitution of the State of California and contrary to the provisions of Section 1 of the Fourteenth Amendment to the Constitution of the United States.

III

The evidence does not prove or show that public convenience, interest or safety require the abandonment of

operation of all passenger and freight train service except industrial freight switching service on the main line of the Southern Pacific Company on Alameda Street from College Street to East Fifteenth Street in the City of Los Angeles; and the Commission in said order, in finding that the present and future public convenience and necessity permit the abandonment of operation of all passenger and freight train service except industrial switching service on the main line from College Street to East Fifteenth Street, inclusive, in the city of Los Angeles, acted without any or sufficient evidence to justify said finding; and the evidence shows that the present facilities and passenger station of these applicants are adequate, and said order in requiring Southern Pacific Company to abandon and destroy its present facilities and station and the use thereof without compensation, is unlawful and denies to these applicants the equal protection of the laws, and deprives these applicants of their property without due process of law and takes their property for public use without compensation, contrary and repugnant to the provisions of the Constitution of the State of California, and contrary and repugnant to the provisions of the Fifth and Fourteenth Amendments to the Constitution of the United States.

IV

There is no evidence, and the Commission erred in finding that the present and future public convenience and necessity require and will require the construction of a new structure, to wit, a union passenger station and buildings and trackage incidental thereto, to secure adequate service [fol. 203] or facilities for the performance by said Southern Pacific Company and Southern Pacific Railroad Company of their absolute public utility duties and functions, either in the district bounded by Commercial Street, North Main Street, Redondo Street, Alhambra Avenue, and the Los Angeles River, in the City of Los Angeles, or elsewhere in said city.

V

That said decision and Order No. 18593 is unlawful and is against the law in this: that in and by said decision and

order and by the necessary force and effect thereof, the State of California and the State of California through the California Railroad Commission, is permitted to and does deprive those applicants of their property without due process of law, and denies to them and each of them, the equal protection of the law, requiring the installation of large and expensive additions and betterments and requires the procuring of large funds of new capital where extensions of main line are necessary and where acquisitions of large areas of property and the dedication thereof to public use is necessary; and is unlawful and void and deprives these applicants of their property without due process of law and without compensation, and is in violation of and in contravention of the Fourteenth Amendment to the Constitution of the United States; the securing of such funds for new investment and dedication to a new public use is not within the power and authority of the State of California or the Railroad Commission of the State of California to require or authorize; such expensive addisitions and betterments require the procuring of funds for that purpose, which cannot be procured except by the issuance of securities, the authority and supervision over which is conferred by the Statutes of the United States upon the Interstate Commerce Commission, and particularly by Section 20A of the Interstate Commerce Act, and the Interstate Commerce Commission cannot require or authorize the issuance of such securities except upon the application [fol. 204] of the applicants, and the functions of the Railroad Commission of the State of California cannot be combined with the functions of the Interstate Commerce Commission so as to confer jurisdiction upon either the Interstate Commerce Commission or the California Railroad Commission, or both, in the matters embraced within said decision and order and the said order and decision are therefore repugnant to the provisions of Section 8 of Article I and Section 1 of the Fourteenth Amendment to the Constitution of the United States. Said order requires the abandonment of adequate terminal facilities and main line tracks, concerning the adequacy of which there is no evidence to the effect that they are inadequate and not satisfactory to meet the public convenience and necessity of

applicants for many years to come, and thereby said order and decision deprive these applicants of their property without due process of law and appropriates the same for public use without compensation, and denies to them and each of them the equal protection of the laws, contrary to the force and effect of the Constitution of the State of California and of the United States of America. Said decision and order requiring applicants to seek and secure franchises to operate their said railroad across and along public streets which applicants do not desire to acquire, to raise and invest large sums of new capital and to make new and additional extensions contemplated by said order and to locate, construct and operate a union passenger station, and to require the dedication of said new property and funds and capital to public use would be taking the property of said applicants and of their several shareholders without due process of law, and also denying to these applicants and each thereof, and to their shareholders and each thereof, the equal protection of the laws, in that their property will be taken and appropriated and dedicated to public use without just or any compensation, while all other classes of persons are guaranteed by the California Con- [fol. 205] stitution that their property shall not be taken or damaged or dedicated to the public use without just compensation.

VI

These applicants further specify and claim that said decision and order are unlawful in this: that by said decision and order the obligations of a contract made and entered into by and between the State of California and Southern Pacific Railroad Company, predecessor in interest of applicant Southern Pacific Railroad Company, the lessor of Southern Pacific Company, the applicant herein, under and by virtue of the laws of the State of California and the grant thereby made to said Southern Pacific Railroad Company and the acceptance of said grant and right by the filing of its articles of incorporation and by the construction of its railroad commencing at the City and County of San Francisco, and running thence to and through the City of Los Angeles to San Pedro in Los Angeles County, California, and from and in and through the City of Los Ange-

les to the Colorado River and to other places, cities and towns in the State of California as shown by the evidence in this proceeding, are held, decided and adjudged to be impaired and abrogated subsequent to the making of said contract, in contravention of and repugnant to the provisions of Article I, Section 10 of the Constitution of the United States, and Section 1 of the Fourteenth Amendment to the Constitution of the United States.

VII

These applicants further specify and claim that said decision and order are unlawful in this: that by said decision and order the obligations of a contract made and entered into by and between the City of Los Angeles, California, and Southern Pacific Railroad Company, the predecessor in interest of applicant Southern Pacific Railroad Company, the lessor of Southern Pacific Company, applicant, under and by virtue of the laws of the State of California [fol. 206] and the charter of the City of Los Angeles, and the grant thereby made to said Southern Pacific Railroad Company by the ordinance authorizing the construction and operation of its railroad in Alameda Street in said city, and the acceptance of said grant and the right by the construction and operation of its railroad commencing at the City and County of San Francisco and running thence to and through the City of Los Angeles to San Pedro in said County, and from, in and through the City of Los Angeles to the City of Santa Monica, and from, in and through the City of Los Angeles to the City of Santa Ana in Orange County, California, and from, in and through the City of Los Angeles to the Colorado River and to other places, cities and towns in the State of California, as shown by the evidence in this proceeding, are held, decided and adjudged to be impaired and abrogated subsequent to the making of said contract, contrary to the provisions of Article I, Section 10 of the Constitution of the United States, and Section 1 of the Fourteenth Amendment to the Constitution of the United States.

VIII

The provisions of said decision and order requiring these applicants and The Atchison, Topeka & Santa Fe Railway

Company and the Los Angeles & Salt Lake Railroad Company and each of them, to secure and construct and thereafter operate a union passenger station within that portion of the City of Los Angeles bounded by Commercial Street, North Main Street, Redondo Street, Alhambra Avenue and the Los Angeles River, together with such tracks, connections and all other terminal facilities and additions, improvements or changes in the existing railroad facilities of said railroad companies as may be reasonably necessary, convenient or incidental to the use of said passenger station, at a cost of approximately ten million dollars, in substantial compliance with the plan outlined in Commission's Exhibit No. 4-b in these proceedings, by the necessary force and effect thereof is an attempt by the State of California [fol. 207] and the State of California through the California Railroad Commission to require these applicants and their several stockholders to acquire new and additional property and dedicate the same to public use without compensation, and that said orders are unlawful and void, and the power to so require said applicants and their stockholders to acquire such new and additional property and to construct such new and additional facilities and dedicate the same to public use without just or any compensation, is not within the State of California nor the State of California through the California Railroad Commission, nor any other governmental agency, and are in contravention of the provisions of the Fifth and Fourteenth Amendments to the Constitution of the United States.

IX

The Commission has failed and neglected to directly determine and decide the fundamental issue in these proceedings, namely, questions relating to the elimination of grade crossings in the City of Los Angeles, but has attempted to compel defendants to eliminate said grade crossings indirectly by ordering applicants and said Atchison, Topeka & Santa Fe Railway Company and said Los Angeles and Salt Lake Railway Company to join in the location, construction and operation of a union passenger station and other facilities specified in said order within the area described in said order but remote from the main lines of applicants and said co-defendants and has, for these reasons, exceeded the juris-

diction with which this Commission has been vested by the Constitution and laws of the State of California and in contravention of the decisions of the Supreme Court of the State of California and the Supreme Court of the United States and in contravention of the provisions of the Fifth and Fourteenth Amendments to and Section One of Article Eight of the Constitution of the United States and in contravention of the Constitution of the State of California.

Wherefore these applicants respectfully pray that the [fol. 208] said Commission set aside its said findings, decisions and orders, and that a rehearing be had of the above entitled matters; that a time and place be appointed by the Commission for the hearing of said application, and that applicants be afforded an opportunity to present argument in support thereof; and that upon such rehearing the said findings, decisions and orders be amended, modified, set aside and vacated to meet the objections and exceptions above specified.

That pending the final determination of this application, said decisions and orders heretofore entered be suspended and stayed, and that applicants have such further and other relief as may be meet and proper.

Respectfully submitted.

Southern Pacific Company, by Paul Shoup, Vice-President, by G. L. King, Assistant Secretary. (Corporate Seal.) Southern Pacific Railroad Company, by B. A. McAllister, Vice-President, by G. L. King, Secretary. (Corporate Seal.) C. W. Durbrow, 65 Market Street, San Francisco, California; Frank Karr, 670 Pacific Electric Bldg., Los Angeles, California, Attorneys for Applicants.

[fol. 209] City and County of San Francisco,
State of California, ss:

G. L. King, being by me first duly sworn, deposes and says that he is the Assistant Secret ary of Southern Pacific Company, one of the applicants in the above entitled matter; that he has read the foregoing application for rehearing and knows the contents thereof, and that the same is true of his own knowledge, except as to those matters which

are therein stated upon information or belief, and as to those matters that he believes it to be true.

G. L. King.

Subscribed and sworn to before me this 16th day of July, 1927. Frank Harvey, Notary Public in and for the City and County of San Francisco, State of California. (Notarial Seal.)

Filed Railroad Commission, State of California, July 16, 1927. H. G. Mathewson, Secretary.

X

That thereafter, to-wit, on the 26th day of May, 1928, a decision and order, designated as Decision No. 19810, was rendered by said Commission in said cases, Decision No. 18593, denying said petition for rehearing, copy of which decision No. 19810 is hereunto attached, marked Exhibit F and made a part hereof.

XI

That said order and decision of respondents so made on the 8th day of July, 1927, designated as Decision No. 18593, was and is erroneous and contrary to law in the particulars and for the reasons and upon the grounds set forth in said application of your petitioners for rehearing in the copy of said petition next hereinbefore set forth in full, all of which particulars, reasons and grounds are hereby referred to and relied upon as set forth at large herein.

That in making said decision and order respondents did not regularly pursue their authority and that respondents [fol. 210] had no jurisdiction, power or authority to render said decision and order and that respondents exceeded the power and authority vested in them by the provisions of the Public Utilities Act of the State of California in entering said decision and order, in the particulars set forth in said application for rehearing set forth at large hereinabove.

XII

That unless the operation and enforcement of said decision and order, designated as Decision No. 18593, entered and rendered by respondents, be stayed and suspended dur-

ing the pendency of the writ of review hereinafter prayed for, great and irreparable injury will result to your petitioners.

Wherefore petitioners pray for an order of said Supreme Court of the State of California, directing the issuance of a writ of review for the purpose of inquiring into and determining the lawfulness of said Decision and Order of respondents, designated as Decision No. 18593, and the order of said respondents denying petitioner's application for a rehearing designated as Decision No. 19810, and of inquiring into and determining whether said respondents regularly pursued their authority in issuing said orders and decisions, and whether said respondents are invested with power or authority to enter said orders and decisions, and whether said orders and decisions violate any right of petitioners under the Constitution or laws of the United States or the State of California; that such writ be made returnable not later than thirty (30) days after the issuance thereof; that said court by said writ direct said respondents to certify fully to this court at a specified time and place a transcript of all the records and proceedings in said cases numbered 970, 971, 972, 974, 980, 981 and 983, and said application No. 3346; that the same may be reviewed by this court.

And your petitioners further pray that during the pend- [fol. 211] ency of said writ of review the operation and enforcement of said Decision and Order, designated as No. 18593, entered and rendered by respondents be stayed and suspended.

And your petitioners further pray that upon the return of said writ and the record certified to by said Commission therewith, that said order of said Commission be set aside, vacated, cancelled and annulled, and that said cases be dismissed, and for such other and further relief in the premises as may be proper.

C. W. Durbrow, 65 Market Street, San Francisco, California; Frank Karr, 670 Pacific Electric Building, Los Angeles, California, Attorneys for Petitioners. Louis W. Myers and Guy V. Shoup, of Counsel.

City and County of San Francisco,
State of California, ss:

D. P. Ewing, being first duly sworn, deposes and says: That he is an officer, to-wit, assistant secretary, of Southern Pacific Company, one of the petitioners named in the above entitled action; that he has read the foregoing petition for writ of review and that the same is true except as to those matters which are therein stated upon information or belief, and as to those matters that he believes it to be true.

D. P. Ewing.

Subscribed and sworn to before me this 19th day of June, 1928. Frank Harvey, Notary Public in and for the City and County of San Francisco, State of California.

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[fols. 212-240] "Petitions of Atchison, Topeka and Santa Fe Railway Company for Writ of Review, S. F. No. 13056, and of Los Angeles & Salt Lake Railroad Company for Writ of Review, S. F. No. 13057, omitted in printing because they are substantially the same as Petition of Southern Pacific Company et al, for Writ of Review, S. F. No. 13058."

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[fol. 241] In Supreme Court of California

No. S. F. 13058

[Title omitted]

Writ of Review—Filed Aug. 6, 1928

The People of the State of California to Railroad Commission of the State of California and Leon O. Whitsell, C. L. Seavey, Ezra W. DeCoto, Thos. S. Louttit, W. J. Carr, members of and constituting said Railroad Commission, respondents:

Whereas, it has been represented to this Court by the verified petition of petitioners above named on file herein that you, said Railroad Commission of the State of California, and Leon O. Whitsell, C. L. Seavey, Ezra W. DeCoto,

Thos. S. Louttit, W. J. Carr, members of and constituting said Railroad Commission, have made and rendered a decision and order, No. 18593, against petitioners in those certain proceedings pending before you entitled as follows:

[fol. 242] BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Decision No. 18593

Case No. 970

THE MUNICIPAL LEAGUE, a Voluntary Organization of the Citizens of the City of Los Angeles, State of California, Complainant,

vs.

THE SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA & Santa Fe Railway Company, and San Pedro, Los Angeles & Salt Lake Railroad Company, Defendants

Case No. 971

THE CENTRAL DEVELOPMENT ASSOCIATION OF LOS ANGELES, a Voluntary Organization of the Citizens of the City of Los Angeles, State of California, Complainant,

vs.

THE SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA & Santa Fe Railway Company, San Pedro & Santa Fe Railway Company, San Pedro, Los Angeles & Salt Lake Railroad Company, Defendants

Case No. 972

THE CIVIC CENTER ASSOCIATION OF LOS ANGELES, a Corporation of the Citizens of the City of Los Angeles, State of California, Complainant,

vs.

THE SOUTHERN PACIFIC COMPANY, THE ATCHISON, TOPEKA & Santa Fe Railway Company, San Pedro, Los Angeles & Salt Lake Railroad Company, Defendants

Case No. 974

THE CITY OF PASADENA, a Municipal Corporation, Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC Company, Atchison, Topeka and Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, and City of Los Angeles, Defendants

[fol. 243] Case No. 980

THE CITY OF ALHAMBRA, a Municipal Corporation, Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC Company, Atchinson, Topeka & Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, and City of Los Angeles, Defendants

Case No. 981

THE CITY OF SAN GABRIEL, a Municipal Corporation, Complainant,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC Company, Atchison, Topeka & Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company and City of Los Angeles, Defendants

Case No. 983

THE CITY OF SOUTH PASADENA, a Municipal Corporation, Complainant,

v.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC Company, Atchison, Topeka & Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company and City of Los Angeles, Defendants

Application No. 3346

In the Matter of the Application of SOUTHERN PACIFIC COMPANY and LOS ANGELES AND SALT LAKE RAILROAD COMPANY for Approval of Agreement for Joint Terminal Facilities in Los Angeles, California

[fol. 244] and

Whereas, it has been further represented to this Court by said petitioners that said order and decision, No. 18593, is erroneous and void and that the Commission has not regularly pursued its authority, and that the decision and order violates rights of the petitioners under the Constitution of the United States and of the State of California, for reasons set forth at length in said petition, and which fully appear from said petition on file herein, reference thereto being hereby made.

And being willing that the records and proceedings in said matter, upon which said decision and order, No. 18593, is based, and that all matters relating thereto shall be certified and returned by you to this Court;

You, said Railroad Commission of the State of California, and Leon O. Whitsell, C. L. Seavey, Ezra W. DeCoto, Thos. S. Louttit, W. J. Carr, members of and constituting said Railroad Commission, are hereby commanded to certify or cause to be certified and returned to this Court on the 6th day of August, A. D. 1928, at two o'clock P. M. on said day at the Court room of this Court in the State Building, at the Northwest corner of Polk and McAllister Streets in the City and County of San Francisco, California, a full, true and correct transcript of all papers, records, exhibits, files and proceedings in the said proceedings above specified pending before you, with all things touching the same as fully and entirely as it remains before you, in your possession or under your control, in order that the same may be reviewed by this Court and such action taken thereon as of right and as according to law shall be taken and done and that you then and there have this writ.

Witness the Honorable William H. Waste, Chief Justice, [fol. 245] and the Associate Justices of the Supreme Court of the State of California.

Attest my hand and seal and the seal of this Court this 7th day of July, A. D. 1928.

B. Grant Taylor, Clerk of said Court, by I. Erb, Deputy Clerk Supreme Court of the State of California. (Seal.)

Endorsed: Received service and a copy of the within Writ this 7th day of July, 1928. Carl I. Wheat, Attorney for Respondents.

[File endorsement omitted.]

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[fols. 246-254] "Writs of Review, S. F. No. 13056 and S. F. No. 13057, are substantially identical as to form and substance as the Writ of Review issued out of the Supreme Court of the State of California upon the petition of Southern Pacific Company et al. dated July 7, 1928, S. F. No. 13058; omitted in printing."

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[fol. 255] IN SUPREME COURT OF CALIFORNIA

S. F. No. 13056, S. F. No. 13057, S. F. No. 13058

[Titles omitted]

[fol. 256] RETURN TO WRITS OF REVIEW—Filed Aug. 7, 1928

I, H. G. Mathewson, Secretary of the Railroad Commission of the State of California, respondent herein, do hereby certify to the Supreme Court of the State of California:

That as Secretary of the Railroad Commission of the State of California I have kept a true and complete record of the pleadings, transcript of testimony, exhibits, record and proceedings in those certain proceedings before the Railroad Commission entitled as follows:

The Municipal League vs. Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, and San Pedro, Los Angeles and Salt Lake Railroad Company, Case No. 970;

Central Development Association of Los Angeles vs. Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, and San Pedro, Los Angeles and Salt Lake Railroad Company, Case No. 971;

Civic Center Association of Los Angeles vs. Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, and San Pedro, Los Angeles and Salt Lake Railroad Company, Case No. 972;

City of Pasadena, a municipal corporation, vs. Pacific Electric Railway Company, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, and City of Los Angeles, Case No. 974;

City of Alhambra, a municipal corporation, vs. Pacific Electric Railway Company, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, and City of Los Angeles, Case No. 980.

[fol. 257] City of San Gabriel, a municipal corporation, vs. Pacific Electric Railway Company, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, and City of Los Angeles, Case No. 981;

City of South Pasadena, a municipal corporation, vs. Pacific Electric Railway Company, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, San Pedro, Los Angeles and Salt Lake Railroad Company, and City of Los Angeles, Case No. 983; and—

In the Matter of the Application of Suthern Pacific Railroad Company, Southern Pacific Company and Los Angeles and Salt Lake Railroad Company for approval of agreement for joint terminal facilities in Los Angeles, California, Application No. 3346.

That filed herewith are the transcripts of testimony in said proceedings, together with all exhibits, pleadings and orders of the Railroad Commission of the State of California made and filed therein, and that the same constitute the full, true and complete record in the proceedings in the above-entitled matters before the Railroad Commission of the State of California.

In witness whereof I have hereunto set my official signature and affixed the seal of the State of California this 6th day of August, 1928.

H. G. Mathewson, Secretary Railroad Commission of the State of California. (Seal.)

[File endorsement omitted]

[fol. 258] IN SUPREME COURT OF CALIFORNIA

In Bank

S. F. 13056, S. F. 13057, S. F. 13058

[Titles omitted]

MINUTE ENTRY OF CONSOLIDATION, ETC.—Aug. 6, 1928

Hearings on return to writ of review. Pursuant to stipulation on file, ordered matters consolidated for hearing and determination and on one set of briefs. Respondent to file brief within sixty (60) days and petitioners thirty (30) days thereafter to reply, matters there upon to be submitted. Stipulated and ordered that order of Railroad Commission be stayed in accordance with form of order to be filed with the Clerk of this Court.

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[fol. 259] [File endorsement omitted]

IN SUPREME COURT OF CALIFORNIA

S. F. No. 13056. In Bank. May 27, 1930

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY (a Corporation), Petitioner,

v.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA and LEON O. Whitsell, C. L. Seavey, Ezra W. Decoto, Thomas S. Louttit, and W. J. Carr, as Members of and Constituting said Railroad Commission, Respondents

S. F. No. 13057. In Bank. May 27, 1930

LOS ANGELES & SALT LAKE RAILROAD COMPANY (a Corporation), Petitioner,

v.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA and LEON O. Whitsell, C. L. Seavey, Ezra W. Decoto, Thomas S. Louttit, and W. J. Carr, as Members of and Constituting said Railroad Commission, Respondents

S. F. No. 13058. In Bank. May 27, 1930

SOUTHERN PACIFIC COMPANY (a Corporation) and SOUTHERN PACIFIC RAILROAD COMPANY (a Corporation), Petitioners,

v.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA and LEON O. WHITSELL, C. L. SEAVEY, EZRA W. DECOTO, THOMAS S. LOUTTIT, and W. J. CARR, as Members of and Constituting said Railroad Commission, Respondents

Applications for certiorari to review orders of the Railroad Commission of California requiring applicants to es- [fol. 260] tablish and construct a union passenger station in the City of Los Angeles. Order affirmed.

For Petitioners: E. W. Camp, Robert Brennan, M. W. Reed, E. T. Lucey, Leo E. Sievert, A. S. Halstead, Fred E. Pettit, Jr., C. W. Durbrow, Frank Karr; Louis W. Myers and Guy V. Shoup, of Counsel.

Amici curiæ in behalf of City of Los Angeles: Max Thelen, Erwin P. Werner, Jesse E. Stephens, Milton Bryan.

For Respondents: Carl I. Wheat, Reginald L. Vaughan, Roderick B. Cassidy.

DECISION—Filed May 27, 1930

By the COURT:

This matter comes to us upon petitions for writs to review an order of the Railroad Commission of the State of California. Three separate petitions were filed, each carrier involved in the order objecting thereto. The cases have been consolidated in this court, as many of the matters urged in the attacks upon the order of the Commission are available to all the carriers affected by said order.

Said order of the Railroad Commission requires applicants to make and construct a union passenger station within that portion of the city of Los Angeles bounded by Commercial street, North Main Street, Redondo avenue, Alhambra avenue and the Los Angeles river, together with such tracks, connections and all other terminal facilities and additions, extensions, improvements and changes in the existing railroad facilities of applicants as may be rea-

sonably necessary and incidental to the use of said union passenger station, at a cost, as estimated or suggested in said order, of approximately $10,000,000 and in substantial compliance with the plans outlined by said Commission.

A similar order was made by the Railroad Commission in 1921, and a writ of certiorari to review this action of the Commission was obtained from this court, and in December, 1922, this court filed its decision annulling such order (A., [fol. 261] T. & S. F. Ry. Co. v. Railroad Commission, 190 Cal. 214).

The Supreme Court of the United States, on certiorari, reviewed the judgment of this court annulling said orders of the Railroad Commission and affirmed said judgment. (R. R. Comm. v. S. P. Co., 264 U. S. 331.) This case will hereinafter be referred to as the first Los Angeles Terminal case. In discussing the purposes and effect of the Transportation Act of 1920, the opinion of Mr. Chief Justice Taft, in said case, quotes from an earlier opinion written by him in another proceeding, as follows:

"The new act (Transportation Act of 1920) seeks affirmatively to build up a system of railways prepared to handle promptly all the interstate traffic of the country. It aims to give the owner of the railways an opportunity to earn enough to maintain their properties and equipment in such a state of efficiency that they can carry well this burden. To achieve this great purpose, it puts the railroad systems of the country more completely than ever under the fostering guardianship and control of the (Interstate Commerce) Commission, which is to supervise their issue of securities, their car supply and distribution, their joint use of terminals, their joint use of new lines * * *."

After this quotation, the opinion of Mr. Justice Taft continues:

"On the one hand, it is urged that, with the purpose thus declared, the act commits to the supervision and control of the Interstate Commerce Commission such an undertaking as is here in question. * * * On the other hand, it is earnestly contended that, since no specific provision is made for the supervision of interstate union stations by the Interstate Commerce Commission, the whole subject remains in the control of the state railroad commission."

After a detailed consideration of several sections of the Interstate Commerce Act, as amended, Justice Taft continues:

"It is obvious from the foregoing that Congress intended [fol. 262] to place under the superintending and fostering direction of the Interstate Commerce Commission all increased facilities in the matter of distribution of cars and equipment and in joint terminals. * * * It (Interstate Commerce Act) gives to the Interstate Commerce Commission the power and duty, where the public interest requires, to make out of what is the passenger and freight station of one interstate carrier, a union station or depot.

"But it is insisted that the supervisory power thus conferred does not include the installation of an interstate union station, where its terminals and main tracks are newly built, and the interstate carriers are compelled to expropriate, not the terminal property of another interstate carrier, but property of others than carriers, not theretofore used for terminals. This would be giving power to the Interstate Commerce Commission to provide for a small and contracted union station of interstate carriers limited to the terminals of one carrier, and would leave the larger and more important union stations of interstate carriers to the control of state commissions. We think, however, that means of control over installation of such new union stations for interstate carriers is given to the Interstate Commerce Commission in amended paragraphs (19 to 21) of section 402. They provide that no interstate carrier shall undertake the extension of its line of railroad, or the construction of a new line of railroad * * * unless and until the Commission shall certify that public convenience, present and future, requires it; and that no carrier shall abandon all or any portion of its line, or the operation of it, without a similar certificate of approval. Such a certificate is, we think, necessary in the construction of a new interstate union station, which involves a substantial and expensive extension of the main tracks or lines of interstate carriers who theretofore have maintained separate terminals."

After a discussion of the authority of the state, in the [fol. 263] exercise of its police power to regulate intrastate business, it is said:

"But there is a great difference between such relocation of tracks or local stations and what is proposed here. The differences are more than that of mere degree; they and their consequences are so marked as to constitute a change in kind. They come within paragraphs 18 to 21 of section 402, and require a certificate of the Interstate Commerce Commission as a condition precedent to the validity of any action by the carriers or of any order by the state commission."

It is further held that under the Interstate Commerce Act, before the extension of main lines and terminals is required, the Commission is required to make a finding that the expense involved will not impair the ability of the carriers concerned to perform their duty to the public.

Pending the determination of this matter by the Supreme Court of the United States, the city of Los Angeles filed a petition with the Interstate Commerce Commission, asking for an order that the carriers provide, maintain and use a union station within a defined area of the city; abandon main line passenger and freight service, except local freight switching, on and along a portion of Alameda street in Los Angeles, and eliminate and abandon certain railroad grade crossings in the city; construct or acquire such structures, tracks and facilities and construct or abandon such lines or facilities of operation and arrange for such joint or other use of existing tracks, etc., as may be reasonably necessary and incidental as a part of and in furtherance of said union station. This matter was held under consideration by said Commission until the Supreme Court of the United States should have spoken upon the power and duty of said Commission. After the filing of said decision by said court, the Interstate Commerce Commission proceeded to act in accordance with its interpretation of said decision, and found, after hearings held:

[fol. 264] That public convenience and necessity permitted the abandonment of operation of all passenger and freight train service, except industrial freight-switching service, on the main line of the Southern Pacific on Alameda street from College street to East Fifteenth street, inclusive, in the city of Los Angeles, California; that the extension by defendants of their respective main lines of steam rail-

road so as to reach and serve such union passenger station and terminal as they may construct and establish in a described portion of the city of Los Angeles, California, in accordance with a lawful order of the Railroad Commission of California, and the extension of such main lines to provide for rearrangement of their respective passenger and freight routes incidental to the convenient and proper operation of such union station and terminal is reasonably required in the interest of public convenience and necessity and the expense involved therein will not impair the ability of said carriers to perform their respective duties to the public; that in addition to the abandonment of train service on Alameda street as above authorized, public convenience and necessity permit the abandonment by defendants of such portions of their lines of steam railroad, or of all or any portion of the interstate service thereon, as may be incidental to the arrangement of routes, tracks and terminal facilities necessitated by the establishment of a union passenger station and terminal as indicated.

It is also found that the joint use by defendant steam railroads of such main-line tracks of each other as may be incidental and necessary or convenient to the proper operation of a union passenger depot and terminal as above indicated is in the public interest and practicable and will not substantially impair the ability of the carrier or carriers owning or entitled to the enjoyment of such track or tracks to handle its or their own business.

The Railroad Commission of California then made the order under review here which was based upon its own [fol. 265] findings and the above findings of the interstate Commerce Commission and was made conditional upon the issuance by the Interstate Commerce Commission of proper and sufficient certificates covering and authorizing the constructions, extension and abandonments authorized in said order of the Railroad Commission. Such certificates were issued later by the Interstate Commerce Commission after a further hearing and the order of the Railroad Commission, to which the carriers are here objecting, became effective.

The lengthy controversy in the briefs of the parties hereto as to the effect and meaning of the decision of the United States Supreme Court in the first Los Angeles Terminal case has been settled, to some extent at least, by a later pro-

nouncement of that court in the same matter. During the pendency of this proceeding in this court to review said order of the Railroad Commission, the City of Los Angeles, on July 12, 1928, sought from the Supreme Court of the District of Columbia a writ of mandamus compelling the Interstate Commerce Commission to consider the evidence introduced in the proceeding before it involving the Los Angeles Passenger Terminal for the purpose of determining whether the Commission should order the railroads involved to build or use an interstate union passenger station in the city of Los Angeles, California, and after consideration of the evidence, to make such order therein as the facts may require. The Supreme Court of the District of Columbia dismissed the petition; the Court of Appeals reversed the judgment of the said Supreme Court and remanded the cause for further proceedings, and the United States Supreme Court granted a writ of certiorari, reversing the judgment of the Court of Appeals of the District of Columbia. (Interstate Commerce Commission v. United States ex rel. City of Los Angeles, 50 Sup. Ct. Rep. 53, decided November 25, 1929, and hereinafter referred to as the second Los Angeles Terminal case.) In that case it was said:

"The sole question for decision is whether the Interstate [fol. 266] Commerce Commission has jurisdiction to order the construction of the union station."

Further, in the same opinion, the court quotes from the decision of the Interstate Commerce Commission under review, as follows:

"Re-examination of the whole subject again leads us to the conclusion that under existing law we are not empowered to require the construction of a union passenger station of the character sought by the complaint."

The opinion of the United States Supreme Court continues:

"There are cases in the state courts in which by virtue of statutory provision, railroads are required expressly to unite in a passenger station, if determined by * * * a Railroad Commission. * * * But there is no Federal

case in which is built up out of such words as those which we find in the Transportation Act of 1920 authority for requiring such a station. Without more specific and express legislative direction than is found in the Act, we cannot reasonably ascribe to Congress a purpose to compel the interstate carriers here to build a union passenger station in a city of the size and extent and the great business requirements of Los Angeles. The Commission was created by Congress. If it was to be clothed with the power to require railroads to abandon their existing stations and terminal tracks in a city and to combine for the purpose of establishing in lieu thereof a new union station, at a new site, that power we should expect to find in congressional legislation. * * * To attribute to Congress an intention to authorize the compulsory establishment of union passenger stations the country over, without special mention of them as such, would be most extraordinary. * * * When the interest of a great city in its improvements is to be promoted entirely at the expense of railroads that enter it, Congress would be expected to hesitate before it would change discretionary leave for the erection of such stations into positive command. In such a case, the expenditure of a large amount of capital will not bring with it corresponding increase in the railroad revenues. If Congress had intended to give an executive tribunal unfettered [fol. 267] capacity for requisitioning investment of capital of the carriers and the purchase of large quantities of land and material in an adverse proceeding, we may well be confident that Congress would have made its meaning far clearer and more direct than in the present meagre provisions of the Transportation Act. * * * But it is said that we have already foreclosed the conclusion in this case by our opinion in 264 U. S. 331 (the first Los Angeles Terminal case.) The only issue there presented to this court was whether it was necessary to secure from the Interstate Commerce Commission its approval of the construction of a union station and the relocation of the connecting tracks proposed. The point in that case was the necessity for the acquiescence by the Interstate Commerce Commission in respect to a union passenger station. We held such a certificate to be necessary before a union station or connecting lines of interstate carriers could be lawful. That is all we held."

(1) It is settled, therefore, by the highest judicial authority in the land, that the Transportation Act has not transferred to the Interstate Commerce Commission the power to make the order involved here.

It is urged, however, by petitioners that even though it be true that the Interstate Commerce Commission has no power to enter the order for the erection and maintenance of a union station, the fact that it has some powers given it over the general subject matter indicates that Congress "has entered the field" of regulation respecting the establishment of union stations to such an extent as to automatically terminate the state's power to deal with that subject. The most decisive answer to this question is that the language of the decision of the Supreme Court of the United States, in the first Los Angeles Terminal case, is to the effect that an order is to be made by the state commission, conditioned only upon the proper findings and certificates of the Interstate Commerce Commission.

If we examine into the question independently of said [fol. 268] decision of the Supreme Court of the United States we find that the Supreme Court of California, prior to the Transportation Act of 1920, assumed, at least, that the Railroad Commission had jurisdiction to order the erection and maintenance of a union station, for in the case of Civic Center Assn. v. Railroad Commission, 175 Cal. 441, this court directed the Commission to proceed with a hearing and determination on the merits of a complaint which included a demand for a union station order. Later, in the case of Atchison, Topeka & Santa Fe Railway Co. v. R. R. Comm., supra, this court held that the Railroad Commission had been divested of such power by the Federal Transportation Act of 1920, and if this conclusion be out of harmony with the view of the United States Supreme Court, as the two decisions of that court with reference to this matter show it to be, then, assuredly, the power mentioned, never having been divested, is vested at present in the State Railroad Commission.

(2) The Constitution of this state expressly provides that the authority of the legislature to confer powers upon the Railroad Commission is plenary and unlimited by any provision of the Constitution (Const. of Cal., art. XII, secs. 22 and 23; Pac. Tel. and Tel. Co. v. Eshleman et al., 166 Cal. 640).

(3) There can be no question that the legislature by the Public Utilities Act (Stats. 1915, chap. 91, p. 115), sections 13b, 22a, 30, 31 and, particularly by section 36 thereof, has conferred upon the Railroad Commission powers broad enough to include the ones sought to be exercised by said Commission herein.

While it is beyond question that if the Congress of the United States had "occupied the field" of providing for the erection and maintenance of union passenger stations, the power of the state in that matter would have been supplanted and no coordinate power would exist in the State Commission, this situation does not exist under the decision of the United States Supreme Court to the effect that Congress has merely occupied the field of supervising [fol. 269] and ascertaining the jurisdictional facts with relation to the establishment of such stations. The case of State ex rel. Corporation Commission v. Southern R. R. Co. et al., 185 N. C. at page 457, in dealing with a similar contention, says:

"We have examined the act of 1920 carefully and we do not find any provision therein, which grants to the Interstate Commerce Commission, either expressly or by clear implication, the power, or which makes it its duty, to require the erection of passenger stations. It is not claimed in this case that such an order has been made by the Interstate Commerce Commission. The right of the State, then, to act in this particular is expressly preserved to it by the Transportation Act of 1920, section 402, subsection 17 (41 Stats. at Large, p. 477), as follows: 'Provided, however, that nothing in this act shall impair or affect the right of a state, in the exercise of its police power, to require just and reasonable freight and passenger service for intrastate business, except in so far as such requirement is inconsistent with any lawful order of the Commission made under the provisions of this act.'"

It is next contended that the order under review is in violation of law and in excess of jurisdiction because it violates the law of the case, as announced in the previous decision of this court, annulling a similar order of the Railroad Commission, and because the respondent is

estopped to make such order under the principle of res judicata. Addressing ourselves to the first contention, the case of Klauber v. San Diego Street Car Co., 98 Cal. 105, seems to contain pertinent language, as follows:

"The 'law of the case' is a phrase which has been formulated in this state to give expression to the rule that the final judgment of the highest court upon a question of law arising between the parties to an action on a given state of facts establishes the rights of the parties to that controversy, and is a final determination thereof, and, like a final judgment in any other case, estops the parties thereto from afterwards questioning its correctness."

(4) The doctrine of the "law of the case" applies only [fol. 270] to the decisions of the highest court on the particular issue under consideration. Where this issue involves the construction of the Constitution or statutes of the United States, the highest court is the Supreme Court of the United States, and, hence, the doctrine of the "law of the case" does not apply to a decision of the State Supreme Court. The question involved was discussed by the supreme court of Mississippi in the case of Louisville & N. R. Co. v. State, 107 Miss. 597, 65 So. 881, wherein it was said:

"Ordinarily, the opinions heretofore rendered would constitute the law of the case, and the matters therein decided would not be again examined by us; but the law of the case rule has no application here for the reason that the right claimed by appellant is one which arises under the Constitution and laws of the United States, and with reference to all such questions this court is not one of final jurisdiction, but is simply an intermediate appellate court from whose jurisdiction an appeal lies to the Supreme Court of the United States, the decisions of which court, in all such matters, are binding upon and must be followed by us."

(5) As we have stated, the decision of the United States Supreme Court in this matter was based upon other grounds than was the decision of the Supreme Court of California, and, as we have pointed out, it is our view that the final authority upon the question has held, in effect,

that the State Commission has jurisdiction to make the final order for a union station, upon the condition precedent that the Interstate Commerce Commission shall make the findings mentioned. This discussion also answers the argument that the State Commission is estopped by the doctrine of res judicata to make the order here under review.

(6) It is also contended that the order, requiring, as it does, the acquisition and dedication to public use of new property necessary for the construction of a union station and the abandonment of adequate facilities, deprives the [fol. 271] petitioners of their property without due process of law and takes their property for public use without compensation, contrary to the constitutional guarantees of the United States and of the state of California. That contention is not a new one, but has been passed upon by numerous state tribunals, contrary to the contention of the railroads herein, noticeably in the cases of State ex rel. Railroad Commissioners v. Atlantic Coast Line R. Co. et al., 67 Fla. 441; Griffin v. Southern Ry. Co., 150 N. C. 312; State ex rel. Corporation Commission v. Seaboard Air Line et al., 161 N. C. 270; State ex rel. Corporation Comm. v. Southern Ry. Co. et al., 185 N. C. 435; Gulf, S. F. Ry. Co. v. State, 167 S. W. 192; Railroad Commission v. Northern Alabama Ry. Co., 182 Ala. 357; Railroad Commission v. Alabama Great Southern R. R. Co., 185 Ala. 354; Mayor etc. v. N. & W. R. R. Co., 109 Mass. 103; State v. St. L. S. Ry. Co., 165 S. W. 491; W. M. & P. Co. v. Jacobson, 179 U. S. 287.

(7) The foregoing decisions also answer the contention of petitioners that the erection of a union station is a matter of business policy and management and not a proper subject for control under the police power of the state.

The Southern Pacific Company, one of the petitioners here, contends that with relation to it the order is void because its necessary force and effect, as to said petitioner, is to require it to abandon adequate facilities and to join the other petitioners in acquiring new property which is unnecessary for a full performance of said petitioner's duties to the public. This argument is made because there has been no finding of fact made by the Railroad Commission of

this state that the passenger station and facilities of the Southern Pacific Company was inadequate. There is, assuredly, an implied finding to this effect in the order of the Railroad Commission under review. The argument of the Southern Pacific Company that the evidence does not show that its passenger depot is inadequate, but, on the contrary, shows it to be adequate for some years to come, loses sight of the fact that an adequate building alone will not consti- [fol. 272] tute adequate passenger terminal facilities, but that a satisfactory passenger terminal contemplates also that passenger trains may safely be directed to said terminal. The record discloses that passenger trains of the Southern Pacific Company can only reach its present passenger terminal by grade crossings along Alameda street, which are so unsafe, impracticable and unreasonable, under all the surrounding circumstances, as to require elimination. The carriers admit the desirability of eliminating the grade crossings, and submitted a plan of their own. Both Commissions have found this plan undesirable and the application of the carrier to proceed in accordance therewith was denied by the Interstate Commerce Commission. Petitioners assert that they do not object to the elimination of grade crossings, but object to the method employed for accomplishing this. Extensive hearings were had upon this general problem and expensive investigations were made by engineers and other experts and the findings of the Railroad Commission were made after full consideration and upon ample evidence.

(8) Unless the action of the state Commission is beyond its jurisdiction, its findings are binding upon us in this proceeding. (Pac. Tel. & Tel. Co. v. Eshleman, 166 Cal. 640.)

(9) It is contended by the petitioners, Atchison, Topeka and Santa Fe Railway Co. and Los Angeles and Salt Lake Railroad Co., that their property is being taken for public use without compensation and without due process of law because the necessary effect of the order under review is to require them to join in the construction of a union station, the primary purpose of which is to accomplish the removal of the tracks of the Southern Pacific Company from Alameda street, a matter with which they are unconcerned.

The Railroad Commission, on the other hand, takes a position which we think is correct, to the effect that each company is ordered to join in the erection of the union station because of its own inadequacies in terminal passenger facilities; that the proportionate expense of each has not [fol. 273] yet been determined, and that when it is determined, it is assumed that each carrier will be required to pay because of and in an amount proportionate to the evils in its system sought to be remedied by the new plan. It cannot be assumed that in the event they fail to agree upon a segregation of the costs, the Railroad Commission will require any of the carriers to pay more than the amount necessary to furnish proper facilities to perform its duty to the public.

(10) It is also contended, and we think with little merit, that the order of the Railroad Commission is arbitrary because not warranted by the evidence introduced at the hearings. The evidence, indeed, the admitted facts, show that the station facilities of two of the carriers are inadequate, and that the grade crossings of the Southern Pacific, the third carrier, are dangerous to life and limb and unsuited to the surroundings. The latter matter could only be changed by a complete and expensive change of trackage or a change of terminal and the Commission adopted the latter method because of the need of a new terminal by the other two carriers. There is nothing unreasonable or arbitrary in the findings and order made.

(11) As a last attack upon the order, the carriers contend it is conditional and not absolute, indefinite and uncertain. It is contended that because the order recites that it shall become effective upon the promulgation by the Interstate Commerce Commission of an order issuing and granting proper and sufficient certificates or orders covering and authorizing the constructions, extensions and abandonments authorized in said order of the Railroad Commission, and that the issuance of such order or orders by the Interstate Commerce Commission shall be a condition precedent to the effectiveness of the order of the Railroad Commission, the order is void for uncertainty. Petitioners ask who is to say whether or not such certificates as might be made by the Interstate Commerce Commission

are "proper and sufficient certificates". We think this [fol. 274] question is not properly raised here. The certificates on their face are proper and sufficient and comply with the decision of the Supreme Court of the United States; the Railroad Commission is so considering them, as did the Interstate Commerce Commission. No question has been raised by anyone as to their insufficiency and since they had been issued and were in existence and became a part of the order of the Railroad Commission at the time the writ of review was issued by this court, no uncertainty existed at such time as to their content and no dispute existed as to their sufficiency.

(12) As to the objection that the order under review does not specify the details of the construction of the union station, we think it is without merit. A substantial compliance with the plans is all that is required, variation in detail being left to the discretion of the carriers. A similar situation was considered by the court in G., C. & S. F. Ry. Co. v. State, 167 S. W. 192, where the court said:

"It is urged by demurrer that the order was too vague and indefinite to be complied with, in that it did not designate the location of such depot, and failed to state the kind and character of building or structure required. We think it is unquestionably true that the Commission, under this statute, had the right to determine for itself the location, as well as the character and kind of a depot that should be erected; but it was permissible, we think, for it to leave these matters of detail open to appellants, for the reason that these questions might be best determined by them."

In the instant case, the location of the union station is given, the track lay-out is fully shown, the land necessary to be taken is definitely marked out and the general dimensions of the station building are given. As to the details of the arrangement, this is left, considerately, to the discretion of the carriers and, as we have stated, a substantial compliance with the suggested plan is all that is required.

We find no other contentions with sufficient merit to require discussion. The order of the Railroad Commission is affirmed.

[fols. 275-305] Petition for rehearing, covering 31 pages, filed June 16, 1930, omitted from this print. It was denied, and nothing more by orders of June 26, 1930.

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[fol. 306] IN SUPREME COURT OF CALIFORNIA

In Bank

ORDERS DENYING REHEARING—Filed June 26, 1930

S. F. 13056

ATCHISON, TOPEKA AND SANTA FE

v.

RAILROAD COMMISSION, etc.

By the COURT:

The petition for a rehearing herein is denied.

Waste, C. J.

Dated June 26, 1930.

S. F. 13058

S. P. Co.

v.

RAILROAD COMMISSION

By the COURT:

The petition for a rehearing herein is denied.

Waste, C. J.

Dated June 26, 1930.

S. F. 13057

L. A. & S. L. RY. Co.

v.

RAILROAD COMMISSION

By the COURT:

The petition for a rehearing herein is denied.

Waste, C. J.

Dated June 26, 1930.

[File endorsement omitted.]

[fol. 307] IN SUPREME COURT OF CALIFORNIA

Bank

San Francisco, No. 13056

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY (a Corp.), Petitioner,

vs.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, Respondents

On Review from the Railroad Commission of the State of California

JUDGMENT

The above-entitled matter having been heretofore fully argued, and submitted and taken under advisement, and all and singular the law and premises having been fully considered,

It is ordered, adjudged, and decreed by the Court that the Order of the Railroad Commission of the State of California in the above-entitled cause be, and the same is hereby, affirmed.

I, B. Grant Taylor, Clerk of the Supreme Court of the State of California, do hereby certify that the foregoing is a true copy of an original judgment entered in the above entitled cause on the 27th day of May, 1930, and now remaining of record in my office.

Witness my hand and seal of the court, affixed at my office, this 27th day of June, A. D., 1930.

B. Grant Taylor, Clerk, by I. M. Johnson, Deputy.

[fol. 308] IN SUPREME COURT OF CALIFORNIA

Bank

San Francisco, No. 13057

LOS ANGELES & SALT LAKE RAILROAD COMPANY (a Corp.), Petitioner,

vs.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, Respondents

On Review from the Railroad Commission of the State of California

JUDGMENT

The above entitled matter having been heretofore fully argued, and submitted and taken under advisement, and all and singular the law and premises having been fully considered,

It is ordered, adjudged and decreed by the Court that the Order of the Railroad Commission of the State of California in the above entitled cause be, and the same is hereby, affirmed.

I, B. Grant Taylor, Clerk of the Supreme Court of the State of California, do hereby certify that the foregoing is a true copy of an original judgment entered in the above entitled cause on the 27th day of May, 1930, and now remaining of record in my office.

Witness my hand and the seal of the Court, affixed at my office this 27th day of June, A. D., 1930.

B. Grant Taylor, Clerk, by I. M. Johnson, Deputy.

[fol. 309] IN SUPREME COURT OF CALIFORNIA

Bank

San Francisco, No. 13058

SOUTHERN PACIFIC COMPANY (a Corp.), SOUTHERN PACIFIC Railroad Company (a *a* Corp.), Petitioners,

vs.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, Respondents

On Review from the Railroad Commission of the State of California

JUDGMENT

The above entitled matter having been heretofore fully argued, and submitted and taken under advisement, and all and singular the law and premises having been fully considered,

It is ordered, adjudged and decreed by the Court that the Order of the Railroad Commission of the State of California in the above entitled cause be, and the same is hereby, affirmed.

I, B. Grant Taylor, Clerk of the Supreme Court of the State of California, do hereby certify that the foregoing is a true copy of an original judgment entered in the above entitled cause on the 27th day of May, 1930, and now remaining of record in my office.

Witness my hand and the seal of the Court, affixed at my office this 27th day of June, A. D., 1930.

B. Grant Taylor, Clerk, by I. M. Johnson, Deputy.

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[fol. 310] IN SUPREME COURT OF CALIFORNIA

S. F. No. 13056

[Title omitted]

PETITION FOR APPEAL—Filed June 26, 1930

To the Honorable W. H. Waste, Chief Justice of the Supreme Court of the State of California:

Now comes Atchison, Topeka and Santa Fe Railway Company, petitioner in the above entitled cause, by its attorneys, and respectfully shows that:

On the 27th day of May, 1930, in the above entitled cause the Supreme Court of the State of California, the highest court of said state in which a decision in said cause could be had, rendered a certain judgment against the petitioner and in favor of the respondents affirming that certain order of the Railroad Commission of the State of California rendered on the 8th day of July, 1927, designated as Decision No. 18593, and said judgment of said court upon denial of petitioner's application for rehearing became operative and final on the 26 day of June, 1930.

[fol. 311] In the record and proceedings and in the rendition of said judgment and in permitting the same to become final and conclusive, manifest error has occurred greatly to petitioner's damage, whereby petitioner feels aggri-ved and does hereby appeal from said judgment to the Supreme Court of the United States.

In the record and proceedings and in the rendition of said judgment it is manifest that there was drawn in question by petitioner the construction and validity of said order of the Railroad Commission of the State of California rendered on the 8th day of July, 1927, designated as Decision No 18593, made and entered by the Railroad Commission of the State of California under Sections 22 and 23 of Article XII of the Constitution of the State of California, and under that certain Act of the Legislature of the State of California known and designated as the "Public Utilities Act," Statutes 1915, Chapter 91, page 115 (Sections 13 (b), 22 (a), 30, 31 and particularly Section 36 thereof), on the ground of said order being in contravention of, and repugnant to, the Constitution of the United States, and the judgment of said court was in favor of the validity of said order under said provisions of the laws of said state; and there was drawn in question the construction and application of three several clauses of the Constitution of the United States; that is to say, the clause of Section 1 of the Fourteenth Amendment to the Constitution of the United State, by which the State of California is prohibited from taking private property for public use without due process of law and without com-
[fol. 312] pensation, and from depriving petitioner of its property without due process of law and without compensation; and the clause of said Section 1 of said Fourteenth

Amendment by which the State of California is prohibited from denying any person within its jurisdiction the equal protection of the laws; and the clause of Section 8 of Article 1 of the Constitution of the United States by which Congress is empowered to regulate commerce among the several states; and the decision and judgment was against the rights, titles, privileges and exemptions specially set up and claimed under each of said clauses of the Constitution of the United States; and in said record and proceedings and in the rendition of said judgment it is manifest that there was drawn in question by petitioner the construction and validity of said order of said Commission so rendered, made and entered under said sections of the Constitution and laws of said state, on the ground that said order was in contravention of and repugnant to statutes and laws of the United States, being paragraphs eighteen to twenty-one of Section 1 and paragraphs three and four of Section 3 of the Interstate Commerce Act as amended by Transportation Act 1920, and said judgment was in favor of the validity of said order under said provisions of the laws of said state and against the rights so specially set up and claimed under said statutes and laws of the United States and under each and every of them; all of which is fully apparent in the record and proceedings of the case and in the rendition of said judgment, and specifically set forth in the assignment of errors filed herewith.

Wherefore petitioner prays that an appeal from said [fol. 313] judgment to the Supreme Court of the United States be allowed; that citation be issued as provided by law; that a transcript of the record, proceedings and papers upon which said judgment and order were based, duly authenticated, be ordered sent to the Supreme Court of the United States at Washington, D. C., under the rules of said court in such case made and provided; that the proper order be made and entered fixing the amount of security to be required of petitioner, conditioned according to law, and that upon giving such bond as may be required, and upon the compliance with the terms of the Statute in such cases made and provided, said bond and appeal may operate as a supersedeas until the determina-

tion of petitioner's appeal by the Supreme Court of the United States.

Dated June 26, 1930.

E. W. Camp, Robert Brennan, Attorneys for Petitioner. E. E. McInnis, of Counsel.

[File endorsement omitted.]

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[fols. 314-319] "Petitions for appeal, S. F. No. 13057 and S. F. No. 13058; omitted in printing because they are substantially the same as in S. F. No. 13056."

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[fol. 320] IN SUPREME COURT OF CALIFORNIA

S. F. No. 13056

[Title omitted]

ASSIGNMENT OF ERRORS—Filed June 26, 1930

Now comes petitioner above named and in connection with its petition for appeal filed herewith says that in the record and proceedings in the above entitled cause and the final judgment made and entered against it therein on the 27th day of May, 1930, and in the order dated June 26, 1930, denying petitioner's application for a rehearing in said cause manifest error has intervened to the prejudice of petitioner in the particulars hereinafter set forth, that is to say:

I

The Supreme Court of the State of California erred in holding that the order of the Railroad Commission of the State of California requiring petitioner to join with other carriers in the construction of such tracks, connections, and all other terminal facilities and additions, extensions, improvements and changes in the existing railroad facilities [fol. 321] of petitioner as may be reasonably necessary, convenient or incidental to the use of a union passenger station at the City of Los Angeles, State of California, is

not a taking of petitioner's property without due process of law and is not a denying to your petitioner the equal protection of the law within the meaning of the Fourteenth Amendment to the Constitution of the United States.

II

The Court erred in holding that the Railroad Commission's order requiring petitioner to extend its main line to reach territory not heretofore served by petitioner, permit other carriers to make use of its main line tracks, join with other carriers in constructing tracks for joint use of petitioner and other carriers, and to make connections between its main line tracks and the main line tracks of other carriers, is not a taking of petitioner's property without due process of law and is not a denying to your petitioner the equal protection of the law within the meaning of the Fourteenth Amendment to the Constitution of the United States.

III

The Court erred in holding that the order of the Commission requiring petitioner to abandon the use of its existing passenger station and station grounds in the City of Los Angeles, California, and join other carriers in constructing, maintaining and operating a union passenger station at the Plaza site in said City, is not a taking of petitioner's property without due process of law and a denying [fol. 322] to your petitioner the equal protection of the law within the meaning of the Fourteenth Amendment to the Constitution of the United States.

IV

The Court erred in holding that the order made and entered by the said Railroad Commission requiring, as it does, the acquisition and dedication to public use of new property necessary for the construction of the union station and the abandonment of adequate facilities does not deprive petitioner of its property without due process of law and does not take its property for public use without compensation in contravention of the provisions of the Fourteenth Amendment to the Constitution of the United States.

V

The Court erred in making and entering its judgment confirming the order of the Railroad Commission of the State of California in that said order is beyond the power which the said Commission can constitutionally exercise because said decision and order would deprive petitioner of its property without due process of law and would deny to it the protection of the law and is in contravention of and repugnant to the Fourteenth Amendment to the Constitution of the United States in that said order required petitioner to install large and expensive additions and betterments and requires petitioner to procure large sums of new capital to comply with said order; and requires petitioner to extend its main lines of railroad and acquire large [fol. 323] areas of property and dedicate the same to public use without compensation.

VI

The Court erred in holding that the order of the Railroad Commission commanding petitioner to extend its main line tracks, permit joint use of its main line tracks by other carriers, and connect its main line tracks with those of other carriers, and join other carriers in constructing main line tracks for joint use of petitioner and other carriers, is not such a regulation of interstate commerce as conflicts with the power of Congress to regulate such commerce under Section 8 of Article I of the Constitution of the United States.

VII

The Court erred in holding and deciding that the Railroad Commission of the State of California is vested by the Public Utilities Act (Statutes 1915, Chapter 91, page 115) Sections 13 (b), 22 (a), 30, 31 and 36 with powers broad enough to include those sought to be exercised by said Commission in entering its order herein and the Court erred in entering the judgment affirming the order of the Railroad Commission because the order of said Commission requiring petitioner to join with other carriers in constructing such tracks, connections and all other terminal facilities, additions, extensions, improvements and changes

in the existing railroad facilities of petitioner as may be reasonably necessary and incidental to the use of a union passenger station at the City of Los Angeles, State of Cali- [fol. 324] fornia, is beyond the power of said Commission in that the Congress of the United States has vested in the Interstate Commerce Commission, by the provisions of paragraphs 18-21 of Section 1 of the Interstate Commerce Act and paragraphs 3 and 4 of Section 3 of said Act, certain powers respecting said matters which powers are exclusive.

VIII

The Court erred in holding that the order of the Commission requiring petitioner to extend its main line tracks, permit other carriers joint use of its main line tracks, connect its main line tracks with those of other carriers, and join with other carriers in constructing main line tracks for joint use of petitioner and other carriers is not in conflict with powers conferred by the Congress upon the Interstate Commerce Commission by the Interstate Commerce Act, especially paragraphs 18, 19, 20, and 21 of Section 1 thereof, as amended by Transportation Act 1920.

IX

The Court erred in holding that the Commission's order requiring petitioner and other interstate carriers by rail to establish, maintain and operate a union passenger station in the City of Los Angeles is not in conflict with the Interstate Commerce Act as amended by Transportation Act 1920 and particularly with paragraph 4 of Section 3 of the Act as so amended, in that by said paragraph the Congress [fol. 325] has conferred on its Commission certain power with respect to union or joint stations, and any power in the Railroad Commission of California to make the order affirmed by the Court would be inconsistent and in conflict with such powers so conferred upon the Interstate Commerce Commission by the Congress; and that by the enactment of said paragraph the Congress has fixed the extent and limit of regulation of interstate carriers by rail with respect to the establishment of union stations.

X

The Court erred in holding that said order in requiring your petitioner to permit use of its main line tracks by

other interstate carriers is not in conflict with said paragraph 4 of Section 3 of said Interstate Commerce Act as so amended, in that by said paragraph the Congress has given said Interstate Commerce Commission power to order joint use of tracks, which power is exclusive of any similar power in state authorities.

XI

The Court erred in holding that said Commission's order requiring petitioner and other interstate carriers to establish, maintain and operate a union passenger station in the City of Los Angeles is not in conflict with the Interstate Commerce Act as amended by Transportation Act 1920, and particularly with paragraph 3 of Section 3 of said Act as so amended, in that by said paragraph the Congress has conferred on its Commission certain power with respect to interchange of traffic between lines of railway and the forwarding, receiving and delivering of passengers [fol. 326] and freight to and from lines of railway, and any power in the Railroad Commission of California to make the order affirmed by the Court would be inconsistent and in conflict with such powers so conferred upon the Interstate Commerce Commission by the Congress; and in that by said paragraph the Congress has fixed the extent and limit to which interstate carriers by rail may be regulated with respect to interchange of traffic and the receiving, forwarding and delivering of passengers and freight.

XII

The Court erred in holding that said order in requiring your petitioner to connect its main line tracks with the main line tracks of other interstate carriers is not in conflict with said Acts of Congress and especially of said paragraph 3 of Section 3 in that the Congress in and by said paragraph has conferred on the Interstate Commerce Commission power to order such connections, and any power in the Railroad Commission of California to make the order affirmed by the Court would be inconsistent and in conflict with such powers so conferred upon the Interstate Commerce Commission by the Congress.

XIII

The Court erred in holding that said order requiring petitioner to extend its main line of railroad is not in conflict with paragraphs 18 to 21 of Section 1 of said Interstate Commerce Act as amended by Transportation Act 1920; in that, in and by said paragraphs the Congress has conferred upon its commission such power as the Congress deems fit to be exercised with respect to extension of main [fol. 327] lines of railway used in interstate commerce; and any order by a state commission commanding an interstate carrier by rail to extend its main line is an invasion of a field of interstate commerce occupied by the Congress.

XIV

The Court erred in holding that the Railroad Commission of the State of California is vested with power and authority to order the construction of main line tracks, joint use of tracks, main line track connections, or other railroad facilities in accordance with certificates of public convenience and necessity issued by the Interstate Commerce Commission under the provisions of the Transportation Act 1920.

XV

The Court erred in holding that the certificates purported to be issued by the Interstate Commerce Commission are proper and sufficient, and in holding that no question has been raised as to their insufficiency; because it appears from said certificates that they were issued by said Interstate Commerce Commission in adversary proceedings against petitioner and other carriers and were not issued on carriers' motion or application but over their protest and objection.

XVI

The Court erred in making and entering its judgment affirming the order of the Railroad Commission of the State of California because the order of said Commission is based upon an error of law and is beyond the power of [fol. 328] the Railroad Commission of the State of California in that the order made and entered by said Commission requiring petitioner to construct such tracks, connec-

tions and all other terminal facilities, additions, extensions, improvements and changes in the existing railroad facilities of petitioner as may be reasonable and necessary and incidental to the use of a union passenger station at the City of Los Angeles, State of California, is an attempt by the Railroad Commission of California to enforce compliance by petitioner with certificates of public convenience purported to have been issued by the Interstate Commerce Commission for which certificates no application was made by petitioner, or any other carrier, and is an attempt by the Railroad Commission of the State of California to order the petitioner to do that which can be permitted only by the Interstate Commerce Commission upon an application made by carriers to the Interstate Commerce Commission.

XVII

The Court erred in holding that the order of the Commission became effective by the issuance by the Interstate Commerce Commission of certain certificates of public convenience and necessity, in that it appears upon the face of such certificates and from the files and papers before said Court that such certificates were issued in proceedings brought against petitioner and other carriers and not upon application of petitioner or any other carriers, but on application of said Railroad Commission and over the protest and objection of petitioner and all other carriers involved.

[fol. 329]

XVIII

The Court erred in making and entering its judgment affirming the order of the Railroad Commission of the State of California because the order made and entered by said Commission is beyond the power which said Commission can constitutionally exercise, deprives the petitioner of its property without due process of law and takes its property for public use without compensation in contravention of and repugnant to the Fourteenth Amendment to the Constitution of the United States in that the order requires petitioner to extend its main lines of railroad to reach other territory not heretofore served by petitioner and to acquire and dedicate to public use new property necessary therefor.

XIX

The Court erred in affirming said order because said order is contrary to the law of the case as declared by the Supreme Court of the United States in its rulings and judgment affirming this Honorable Court's judgment which annulled the former order of the Commission made in the same proceedings.

XX

The Court erred in holding that the order of the Commission requiring petitioner to abandon the use of its existing passenger station and station grounds in the City of Los Angeles, California, and join other carriers in constructing, maintaining and operating a union passenger station at the Plaza site in said City, for the purpose of [fol. 330] removing the trains of the Southern Pacific Company from Alameda Street in the said City, with which removal it has no concern, is not a taking of petitioner's property without due process of law and a denying to your petitioner the equal protection of the law within the meaning of the Fourteenth Amendment to the Constitution of the United States.

Wherefore petitioner above named prays that the said judgment entered herein on the 27th day of May, 1930, affirming the order of the Railroad Commission of the State of California be reversed with directions that the petition of your petitioner be granted and for such other and further relief as may be appropriate.

E. W. Camp, Robert Brennan, Attorneys for Petitioner. E. E. McInnis, of Counsel.

[File endorsement omitted.]

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[fols. 331-338] In Supreme Court of California

S. F. No. 13057

[Title omitted]

Assignment of Errors—Filed June 26, 1930

"Assignment of Errors of Los Angeles & Salt Lake Railroad Company in S. F. No. 13057 omitted in printing,

except paragraph XX, for the reason that the same is substantially identical with the Assignment of Errors of Atchison, Topeka and Santa Fe Railway Company in S. F. No. 13056.

[fol. 339] XX

The Court erred in holding that the order of the Commission requiring petitioner to abandon the use of its existing passenger station and station grounds in the City of Los Angeles, California, and join other carriers in constructing, maintaining and operating a union passenger station at the Plaza site in said city, for the purpose of removing the trains of the Southern Pacific Company from Alameda Street in the said city, with which removal it has no concern, is not a taking of petitioner's propetry without due process of law and a denying to your petitioner the equal protection of the law within the meaning of the Fourteenth Amendment to the Constitution of the United States.

Wherefore petitioner above named prays that the said judgment entered herein on the 27th day of May, 1930, affirming the order of the Railroad Commission of the State of California be reversed with directions that the petition of your petitioner be granted and for such other and further relief as may be appropriate.

A. S. Halsted, E. E. Bennett, Attorneys for Petitioner.

[File endorsement omitted]

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[fols. 340-346] In Supreme Court of California

S. F. No. 13058

[Title omitted]

Assignment of Errors—Filed June 26, 1930

Assignment of Errors of Southern Pacific Company et al. in S. F. No. 13058 omitted in printing, except paragraph No. XX thereof, for the reason that the same are substantially identical with the Assignment of Errors of Atchison, Topeka & Santa Fe Railway Company in S. F. No. 13056."

[fol. 347] XX

The Court erred in making and entering its judgment affirming the order of the Railroad Commission of the State of California requiring petitioners to abandon an adequate passenger station and facilities and join with other carriers in acquiring new property upon which to construct a union passenger station for the purpose of eliminating certain grade crossings in said City of Los Angeles and for the purpose of providing other carriers with adequate passenger terminal depots, in that said order deprives petitioners of their property without due process of law and takes their property for public use without compensation and is, therefore, in contravention [fol. 348] of and repugnant to the Fourteenth Amendment to the Constitution of the United States.

Wherefore petitioners above named pray that the said judgment entered herein on the 27th day of May, 1930, affirming the order of the Railroad Commission of the State of California be reversed with directions that the petition of petitioners be granted and for such other and further relief as may be appropriate.

Frank Karr, C. W. Durbrow, Attorneys for Petitioners Southern Pacific Company and Southern Pacific Railroad Company. G. V. Shoup, of Counsel.

[File endorsement omitted.]

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[fol. 349] In Supreme Court of California

S. F. No. 13056

[Title omitted]

Order Allowing Appeal—Filed June 26, 1930

The petitioner in the above suit having prayed for the allowance of an appeal in this cause to the Supreme Court of the United States from the judgment made and entered in the above entitled suit by the Supreme Court of the State of California, on the 27th day of May, 1930, and

from each and every part thereof, and having presented and filed its petition for appeal, assignment of errors, and prayer for reversal, pursuant to the statutes and rules of the Supreme Court of the United States in such case made and provided,

It is now here ordered, that an appeal be, and the same is hereby, allowed to the Supreme Court of the United States from the Supreme Court of the State of California in the above entitled cause as provided by law, and it is further ordered that the Clerk of the Supreme Court of the State of California shall prepare and certify a transcript of the record, proceedings and judgment in this cause and transmit the same to the Supreme Court of the United States so that he shall have the same in said Court [fol. 350] within sixty (60) days of this date.

And it is further ordered, that this order operate as a supersedeas and that the supersedeas bond be and the same is hereby fixed in the sum of Five Hundred Dollars ($500.00).

Dated June 26, 1930.

William H. Waste, Chief Justice of the Supreme Court of the State of California.

[File endorsement omitted.]

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[fol. 351] IN SUPREME COURT OF CALIFORNIA

S. F. No. 13057

[Title omitted]

ORDER ALLOWING APPEAL—Filed June 26, 1930

The petitioner in the above suit having prayed for the allowance of an appeal in this cause to the Supreme Court of the United States from the judgment made and entered in the above entitled suit by the Supreme Court of the State of California, on the 27th day of May, 1930, and from each and every part thereof, and having presented and filed its petition for appeal, assignment of errors, and prayer for reversal, pursuant to the statutes and the rules

of the Supreme Court of the United States in such case made and provided,

It is now here ordered, that an appeal be, and the same is hereby, allowed to the Supreme Court of the United States from the Supreme Court of the State of California in the above entitled cause as provided by law, and it is further ordered that the Clerk of the Supreme Court of the State of California shall prepare and certify a transcript of the record, proceedings and judgment in this cause and transmit the same to the Supreme Court of the United States so that he shall have the same in said Court within sixty (60) days of this date.

[fol. 352] And it is further ordered, that this order operate as a supersedeas and that the supersedeas bond be and the same is hereby fixed in the sum of Five Hundred Dollars ($500.00).

Dated June 26th, 1930.

William H. Waste, Chief Justice of the Supreme Court of the State of California.

[File endorsement omitted.]

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[fol. 353] In Supreme Court of California

S. F. No. 13058

[Title omitted]

Order Allowing Appeal—Filed June 26, 1930

The petitioners in the above entitled suit, and each of them, having prayed for the allowance of an appeal in this cause to the Supreme Court of the United States from the judgment made and entered in the above entitled suit by the Supreme Court of the State of California, on the 27th day of May, 1930, and from each and every part hereof, and having presented and filed their petition for appeal, assignment of errors, and prayer for reversal, pursuant to the statutes and the rules of the Supreme Court of the United States in such case made and provided,

It is now here ordered, that an appeal be, and the same is hereby, allowed to the Supreme Court of the United

States from the Supreme Court of the State of California in the above entitled cause as provided by law, and it is further ordered that the Clerk of the Supreme Court of the State of California shall prepare and certify a transcript of the record, proceedings and judgment in this cause and transmit the same to the Supreme Court of the United States so that he shall have the same in said Court within sixty (60) days of this date.

And it is further ordered, that this order operate as a [fol. 354] supersedeas and that the supersedeas bond be and the same is hereby fixed in the sum of Five hundred Dollars ($500.00).

Dated June 26, 1930.

William H. Waste, Chief Justice of the Supreme Court of the State of California.

[File endorsement omitted.]

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[fols. 355-357] Citations, in usual form, showing service on Arthur T. George et al., filed June 26, 1930, omitted in printing.

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[fols. 358-369] Supersedeas bonds on appeal for $500.00, approved and filed June 26, 1930, omitted in printing.

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[fol. 370] IN SUPREME COURT OF CALIFORNIA

S. F. No. 13,056, S. F. No. 13,057, S. F. No. 13,058

[Titles omitted]

[fol. 371] **Agreed Condensed Statement of Evidence**

BEFORE CALIFORNIA RAILROAD COMMISSION

STIPULATION

It is hereby stipulated and agreed by and between the respective parties to the above entitled causes that on ap-

peal of said causes to the Supreme Court of the United States the following "Agreed Condensed Statement of Evidence", together with the exhibits specified in said Agreed Condensed Statement of Evidence, including all exhibits embraced therein and all exhibits certified separately and transmitted to the Supreme Court of the United States, as specified in Joint Præcipe for transcript of record and Stipulation contains all of the evidence introduced in the above consolidated causes essential to the decision of the questions presented by said appeal and that when approved by the presiding Justice of the Supreme Court of the State of California said "Agreed Condensed Statement of Evidence" may be filed in the office of the Clerk of the Supreme Court of the State of California and become a part of the record for the purposes of the appeal in the above entitled causes.

Dated San Francisco, September 12th, 1930.

Robert Brennan, E. W. Camp, A. S. Halsted, Frank Karr, C. W. Durbrow, Attorneys for Petitioners.
Arthur T. George, Ira H. Rowell, Roderick B. Cassidy, Attorneys for Respondents.

[fol. 372] Statement by Presiding Commissioner Thelen

This is the time and place set for the hearing in seven proceedings: Case No. 970, Municipal League of the City of Los Angeles v. Southern Pacific Company, and others; Case 971, Central Development Association of Los Angeles v. Southern Pacific Company and others; Case 972, The Civic Center Association of Los Angeles v. Southern Pacific Company, and others; and four cases Numbered 974, 980, 981 and 983 brought by the Cities of Pasadena, Alhambra, San Gabriel and South Pasadena, respectively, against the Pacific Electric Railway Company and others (Tr. 3, Sept. 15, 1916).

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Colloquy Between Commission and Counsel

The following colloquy between the Commission and counsel:

"Mr. Durbrow, Attorney for the Southern Pacific Co., I shall contend that, so far as the establishment of a union

depot is concerned, that this Commission has been vested with the sole and exclusive power to determine that question under the provisions of Section 36 of the Public Utilities Act, and if there is any power in any tribunal in the State of California, court, commission or municipal council, that power must be vested in this Commission under the laws as they now exist (Tr. 10).

"Commissioner Thelan: You would say that if there is power in any tribunal it is in the Railroad Commission. Are you prepared to say whether, in your opinion, that power has been vested in the Railroad Commission?

"Mr. Durbrow: To be frank, in my judgment, by the provisions of Section 36 that power has been vested in the Commission (Tr. 30).

"Commissioner Thelen: Mr. Halsted, you heard the questions I asked Mr. Durbrow at the end of his argument involving this situation of the union depot and these tracks in connection with the depot.

"Mr. Halsted, Attorney for Los Angeles and Salt Lake Railroad: I think I have answered them all.

"Commissioner Thelen: You agree entirely with Mr. Durbrow?

[fol. 373] "Mr. Halsted: Yes, sir (Tr. 48-49).

"Mr. Clotfelter for the Atchison Topeka & Santa Fe Railway Co.: With everything that Mr. Durbrow and Mr. Halsted has said, in behalf of the Santa Fe Railway Company, I wish to state that we concur. If there is any jurisdiction to determine these matters presented by these questions, in any body, we believe it is in the Railroad Commission. But whether that is final, whether that is so, must depend upon what is finally decided to be the law of the land at the present time (Tr. 52).

"Mr. Durbrow: My conception of the law is that that power has been conferred upon commissions, not only of this state, but of other states, and that it is held to be a delegation by the legislature of the police power of the state" (Tr. 78).

"Mr. Durbrow: "I want to say now, if I didn't say it; I tried to, that I believe that where a legislature of a state delegates the power to a commission to compel the establishment of a union depot, that the commission may exercise that power subject, of course, always to constitutional safeguards and it is presumed that the commission will

exercise its power in conformity with those'' (Tr. 97, Sept. 15, 1916).

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Statement by Presiding Commissioner Thelen

In the hearing on the question of jurisdiction all the parties agreed that these seven proceedings might be consolidated for determination of that issue, and that was done. I assume it would be desirable to follow the same course now that we are approaching the issue of fact, namely, to have these seven proceedings consolidated for hearing and decision. If there is no objection to that procedure we will solve the matter along those lines (Tr. 132, July 24, 1917).

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RICHARD SACHSE, was called as a witness on behalf of the Railroad Commission and having been duly sworn testified as follows:

I am the Chief Engineer of the Railroad Commission of [fol. 374] the State of California and was instructed by the Commission to make an investigation of the engineering and other features of the matters involved in these various cases and as a result of the investigation have prepared a printed report (Tr. 1478). The report deals with three main subjects, grade crossing elimination, freight facilities and a union passenger terminal (Tr. 1479). Generally speaking this, I believe, is correct: That the grade crossing elimination is the most important subject and the recommendations we make for that branch of the investigation are to quite a degree independent of the other subjects and that means that all the other matters more or less depend*en* on the grade crossing problem and on the resolution of it. The union passenger terminal in some respects is the least important of the three main subjects, that is, both from the point of view of importance to the city and also from the relative importance of these items that I have mentioned (Tr. 1480, Feb. 17, 1920).

There are only three feasible sites for a union passenger terminal that can be seriously considered, Southern Pacific site, Santa Fe site and Plaza site (Tr. 1481). I have stated in the report that the question of whether there should be

a union passenger terminal is not finally, strictly or even mainly an engineering question. It is question of general city planning policy from the standpoint of the city of Los Angeles. And probably those factors will finally control or ought to control (Tr. 1482). The question of whether there ought to be a union passenger terminal in Los Angeles regardless of location should be answered with a very decided "yes". We come to that conclusion for the reason that in Los Angeles the physical conditions are practically ideal and the railroad situation at this time is such that if ever a union depot is to be built, this is probably the time to build it. This is so because the existing facilities are inadequate, and a great deal of money has to be expended in the near future regardless of whether there is a union depot or not and regardless of where it is going to be [fol. 375] built (Tr. 1482-1483).

Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 1, entitled: "Railroad Commission Grade Crossing and Terminal Investigation Los Angeles", which exhibit is certified separately and transmitted as an original exhibit (Tr. 1498).

The grade crossing elimination is the most important. All main line traffic should be diverted from Alameda Street, which will result in 97 per cent of all traffic now on Alameda Street being removed (Tr. 1481).

All river grade crossings could be eliminated regardless of where the union station will be, if there is one at all (Tr. 1604). If cost is the controlling element or the sole element to be considered then no expensive passenger depot, whether union or otherwise, is justified from the standpoint of the railroads (Tr. 1621). If I were approaching the question of a terminal station from the standpoint of income to be produced by expenditure, and if I had that alone in mind, I would not build such a depot (Tr. 1624-1625). My conclusion—I might say, our conclusion, and when I say "our conclusion," I mean the conclusion of the engineers—is that the Plaza site is so greatly superior to the others, that the margin is so great that there is a distinct preference for the Plaza location, and that if a union terminal is built at all it should be built there (Tr. 1483-1484). My main reason for believing there should be a union depot in Los Angeles is that the con-

ditions in Los Angeles seem to me naturally established. They are made by nature and by the general development of the city, and I, in my limited experience, know of no other place where the natural development is in the direction of a union passenger depot at a comparatively insignificant cost to a greater extent than in Los Angeles; and that is my main reason for thinking and recommending that in Los Angeles a union depot was the proper thing. That would not be true, necessarily, of any other city [fol. 376]where the natural conditions were not present, regardless of civic pride and all of that (Tr. 1633-1634). Considered from the viewpoint of the residents of Los Angeles it is my opinion that there should be a union passenger terminal as distinguished from different terminals of different roads because there are now three steam road passenger depots, two of them are inadequate even for the service that they alone handle and I believe that it is generally admitted that radical changes in each one of these considered alone are imperative and will have to come (Tr. 1634). And it seems to me that every citizen is interested to have the best possible facilities whether he uses them all the time or occasionally (Tr. 1635). I would like to say that I did not say in my report and I am not by any means of the opinion, never was and never will be, that this thing is desirable if the city bears the cost. I did not say that and I do not think it can be found anywhere in the report (Tr. 1638).

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Commissioner Edgerton: The Commission has come to this conclusion, and it may clear up some misunderstanding: We announce at this time that no plan for the union terminal passenger station will be seriously considered by the Commission which would involve contribution, direct money contribution, by the city, unless such contribution were voluntarily offered by the city (Tr. 1655). Based upon an actual count of September 1918 the number of passengers arriving and departing on all steam roads for a year amounted to 2,807,580 and 77,745 of these passengers transferred from one station to another, showing that the percentage of passengers who transferred to the total number of passengers who did not transfer is 2.93 per cent

(Tr. 1680-1682). That figure of 2.93 per cent leaves out one important consideration, which is the Pacific Electric passengers that may come into Los Angeles. The Pacific Electric passengers are a very large majority as compared with the steam railroad passengers (Tr. 1682).

I believe that the operating expenses under separate [fol. 377] facilities are going to be progressively greater in the future than would be the case under unified operations (Tr. 1699, August 16, 1920).

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T. H. Williams was called as a witness on behalf of defendants and, having been duly sworn, testified as follows:

I am Assistant General Manager of the Southern Pacific Company, Southern District. The present time table of the Southern Pacific Company and the Los Angeles and Salt Lake roads show that there are 59 trains in and out of Los Angeles every 24 hours. We could easily handle one hundred trains with the present layout and if we had twelve tracks in our depot we could handle one hundred twenty five to two hundred trains per day without any trouble. I believe it will be a fond dream to think of handling two hundred trains per day in the next twenty or thirty years. In my judgment these two lines will not handle more than one hundred and eighteen trains per day at the expiration of twenty or thirty years (Tr. 2010). I agree with the finding made by the California Railroad Commission in 1914 in approving the plan of the present Southern Pacific terminal facilities at Los Angeles that "the structure to be erected under these plans will be efficient and ample to provide for the probable passenger traffic coming to and departing from a city several times the present size of Los Angeles" (Tr. 2011).

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W. H. Comstock was called as a witness on behalf of defendants and, having been duly sworn, testified as follows:

I am the General Manager of the Los Angeles and Salt Lake Railroad; have had 25 years' experience in the opera-

tion of railroads. Familiar with the operation of passenger trains in and out of stations and time required for loading such trains and discharging passengers and baggage. It is my opinion that the train service on the Los Angeles and Salt Lake Railroad at Los Angeles will decrease rather than increase during the next few years. In my opinion the Southern Pacific Station can handle 200 trains a day, but in my judgment 200 trains could not be [fol. 378] brought into this city over the three steam lines without doubling, trebling and four tracking the lines (Tr. 2039).

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PAUL SHOUP was called as a witness on behalf of defendants and, having been duly sworn, testified as follows:

I am Vice President of Southern Pacific Company and President of Pacific Electric Railway Company (Tr. 1180).

As to the practicability and necessity as applied to these two sites, the statement in the engineer's report on page 289 is to the effect that the Southern Pacific site is adequate for 20 years as it will, in the view of the engineers of the Commission, accommodate 140 trains, which is the number estimated at the end of 20 years. Again on page 344 of the engineering report it is stated that the station is large enough for some time to come and on page 337 that it is sufficient for 140 trains in the future, the reference to the 140 trains being based on the 20-year estimate.

I believe that it has been conclusively shown that the site is adequate to handle expeditiously a much larger number of trains than 140 (Tr. 2061).

On November 30, 1925, the Commission, sitting en banc called the above cases, Nos. 970, 971, 972, 974, 980, 981, 983 and Application No. 3346, and announced that they were reopened for further hearing, and also called Case No. 2177, Complaint of W. H. Daum v. Los Angeles and Salt Lake Railway, et al., in the matter of grade crossings and the establishment of union passenger terminal (Tr. 2535). It was announced that said cases were reopened for further hearing in conformity with the order of the United States Supreme Court and the Interstate Commerce Commission (Tr. 2535). Whereupon the carriers made a formal motion to dismiss from consideration all of the cases

set for hearing with the exception of the Daum case upon the ground that the Supreme Court of the State of California had entered its judgment annulling the orders theretofore made by the Commission and that this judgment had been affirmed by the Supreme Court of the United [fol. 379] States (Tr. 2545). Thereafter the Commission announced that the objection to the jurisdiction of the Commission was overruled (Tr. 2560).

Thereupon counsel for the City of Los Angeles offered and there was admitted in evidence City of Los Angeles Exhibit 5, being a certified copy of Decision of the Interstate Commerce Commission, Docket 14778 and Finance Docket 3556, decided July 6, 1925, which exhibit is certified separately and transmitted as an original exhibit (Tr. 2580, November 30, 1925).

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GEORGE S. HILL was called as a witness on behalf of the Commission and, having been duly sworn, testified as follows:

I am a civil engineer and occupied the position of Assistant Engineer of the California Railroad Commission (Tr. 2593) and have engaged in my profession since 1901. During the period of my experience I have made studies of railroad terminal plans and am familiar in general with the principles which are involved in the planning of railroad terminals. I prepared a plan for a union passenger terminal in the Plaza area for the Railroad Commission in 1924 in connection with Interstate Commerce Commission Docket 14778 and have since made further studies of the Plaza plan which I believe is practical (Tr. 2595).

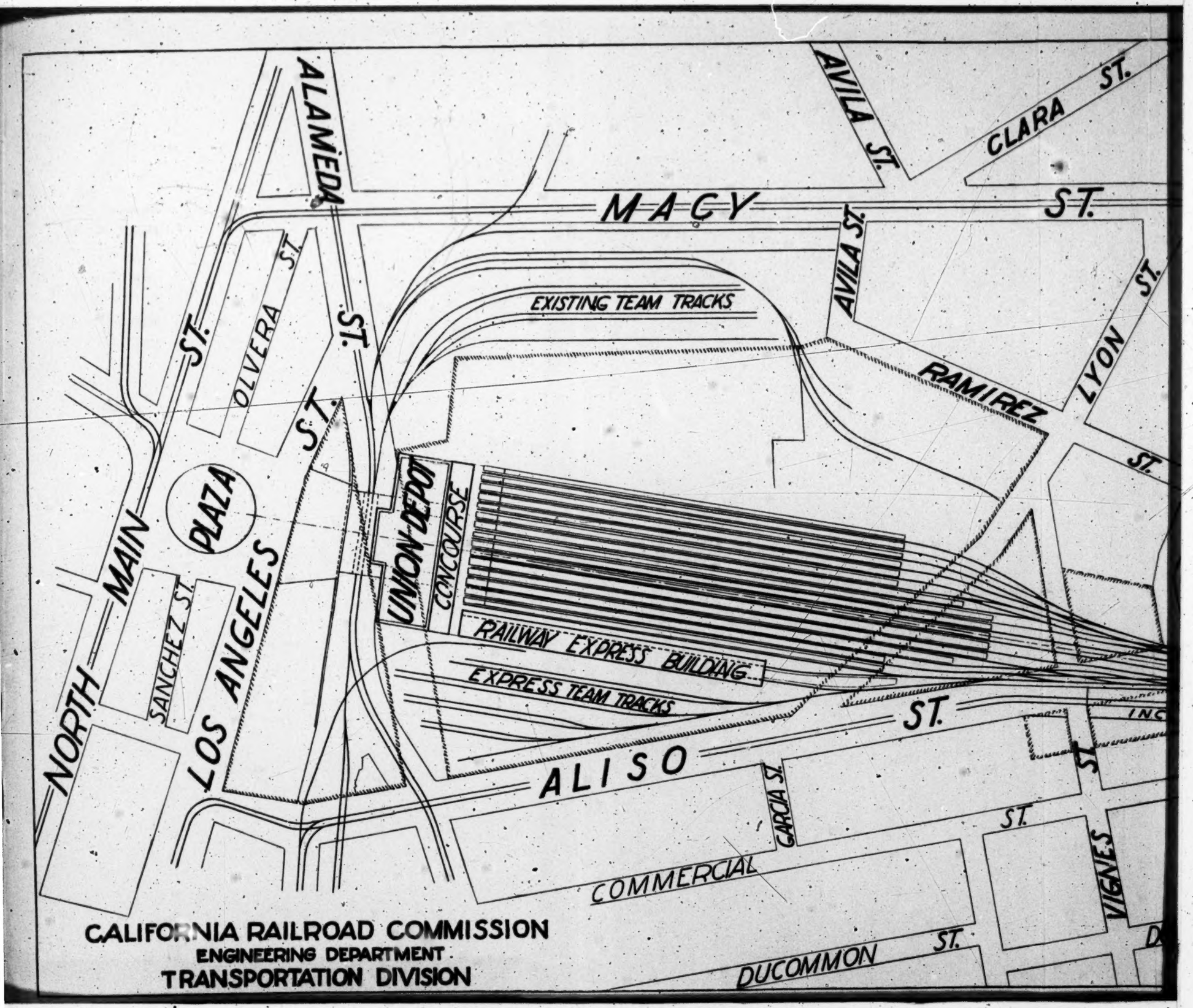
The Plaza plan, Exhibit 23 before the Interstate Commerce Commission, was prepared by me mainly as a sample to show that a practical Union Station could be built within the area defined by the Railroad Commission's order for less money than would be required for separate stations at other sites. Two comparative tables of cost were prepared —one to show the new money required and the other to show the total value of property devoted to passenger terminal use. Under the Plaza plan, the Union Station extends from the river at Aliso Street to Alameda Street facing the

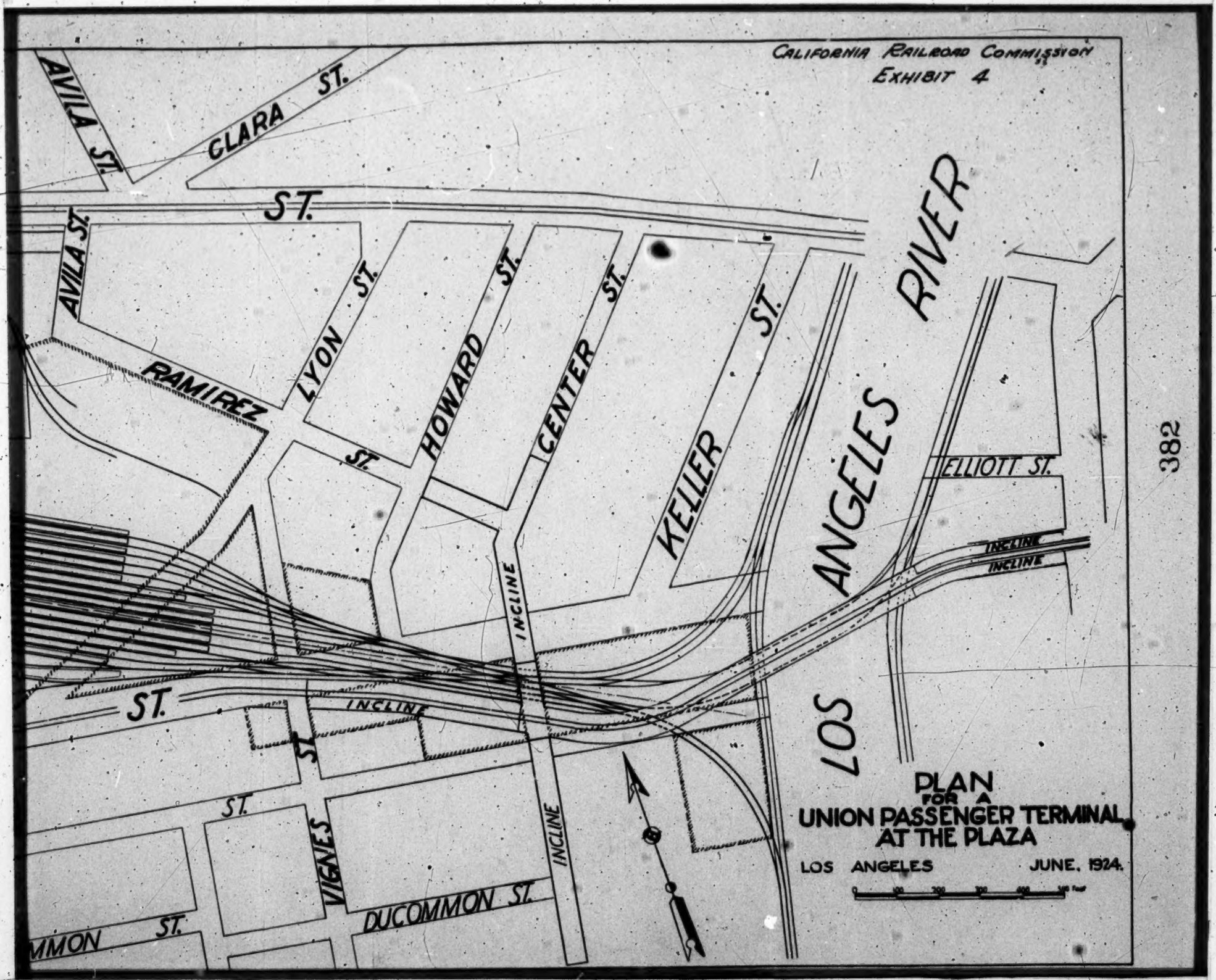
Plaza. The land to be taken includes all of that shown within the crosshatched area and extends from Los Angeles Street to Vignes Street and from Aliso Street to Ramirez [fol. 380] Street and the existing team yard property of the Southern Pacific Company, together with a parcel between Howard and Lyon Streets and other parcels south of Aliso Street as indicated. Alameda Street is shown slightly deflected in order to pass in front of the station at right angles to the tracks, but without change in the existing Alameda Street grades, or the location of sewers and conduits. The Plaza is at an elevation of approximately 17 feet above Alameda Street. In order to provide for this difference of elevation, a retaining wall is shown on the westerly line of Alameda Street in front of the head house, which would also serve as an abutment for a foot bridge from the Plaza level to the station. The main portion of the station building is 400 feet long, 120 feet wide, and 60 feet high. The concourse is 400 feet long, 50 feet wide, and about 20 feet high (Tr. 2596-2597).

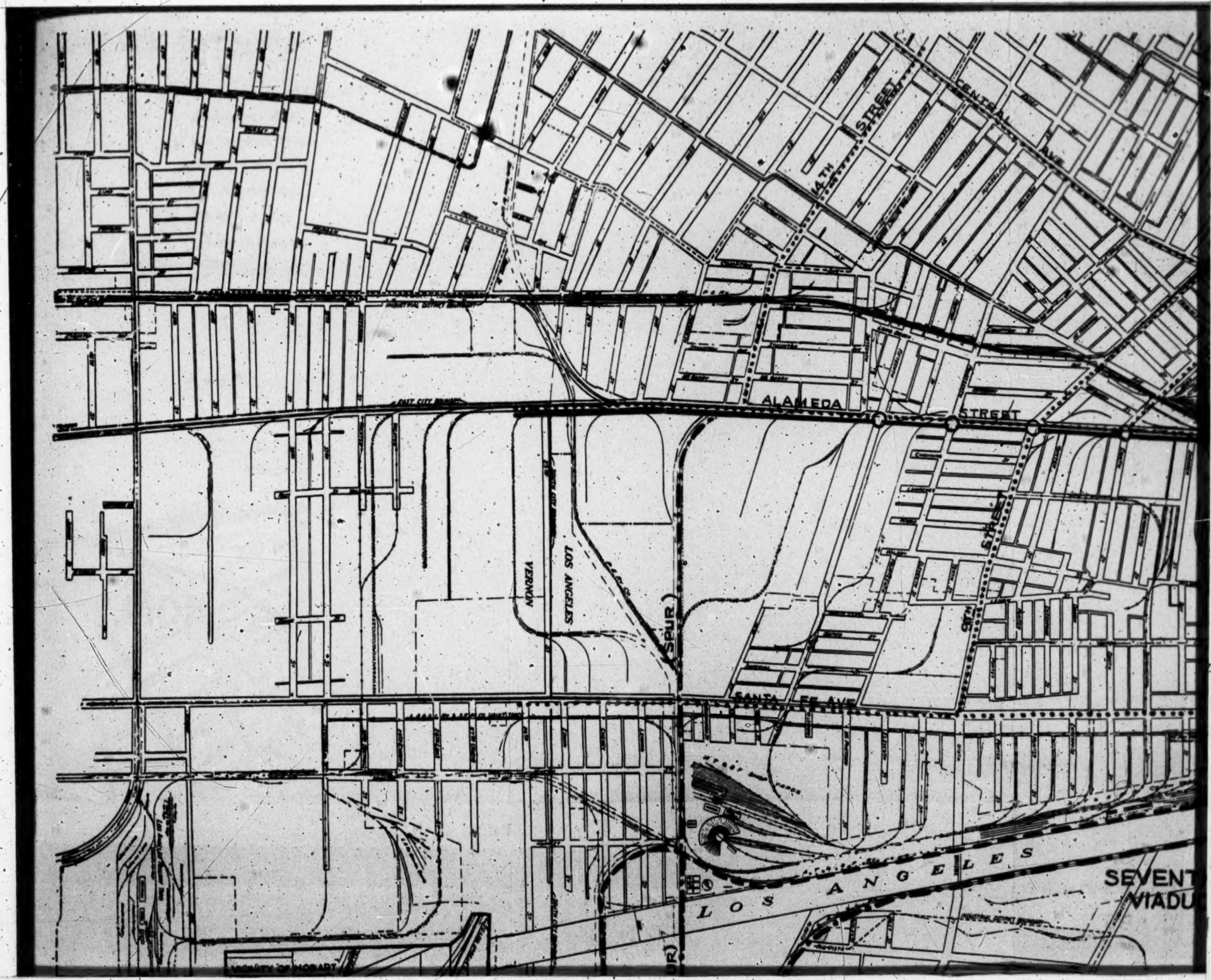
I am describing the same Union Station building as formerly described in my testimony before the Interstate Commerce Commission referring to Exhibit 23 in that proceeding. That is true of all this description I am now giving of a union depot plan, which is the plan shown in Railroad Commission's Exhibit No. 4 (Tr. 2598).

The tracks of the Los Angeles and Salt Lake Railroad are on the east bank of the Los Angeles River. Certain trains of the Southern Pacific Company are brought into the City of Los Angeles from the east by way of Alhambra Avenue and the Yuma line. I have included in my plan for a Plaza Union Station a bridge across the Los Angeles River. It is planned to cross the River by means of a double deck bridge, the lower level of which will be occupied by steam railroad tracks, while the upper level will be occupied by a combined railway and highway structure, providing for the Pacific Electric and vehicular traffic. The plan shows inclines for the vehicular portion on the east bank permitting a separation of grades from the Pacific Electric traffic, while on the west side the Pacific Electric tracks are shown occupying their normal position in the [fol. 381] center of the street (Tr. 2601-2602).

The Southern Pacific and Santa Fe trains would reach the station from the north by means of the west bank tracks


ALAMEDA ST.
AVILA ST.
CLARA ST.
MACY ST.
AVILA ST.
LYON ST.
OLVERA ST.
EXISTING TEAM TRACKS
RAMIREZ
ST.
NORTH MAIN ST.
PLAZA
LOS ANGELES ST.
UNION DEPOT
CONCOURSE
SANCHEZ ST.
RAILWAY EXPRESS BUILDING
EXPRESS TEAM TRACKS
ST.
ALISO
ST.
GARCIA ST.
ST.
VIGNES
COMMERCIAL
DUCOMMON ST.
CALIFORNIA RAILROAD COMMISSION
ENGINEERING DEPARTMENT
TRANSPORTATION DIVISION


CALIFORNIA RAILROAD COMMISSION
EXHIBIT 4
AVILA ST.
CLARA ST.
ST.
AVILA ST.
LYON ST.
HOWARD ST.
CENTER ST.
KELLER ST.
LOS ANGELES RIVER
RAMIREZ
ST.
ELLIOTT ST.
INCLINE
INCLINE
INCLINE
ST.
INCLINE
ST.
ST.
VIGNES
INCLINE
DUCOMMON ST.
MMON ST.
PLAN
FOR A
UNION PASSENGER TERMINAL
AT THE PLAZA
LOS ANGELES JUNE. 1924.
382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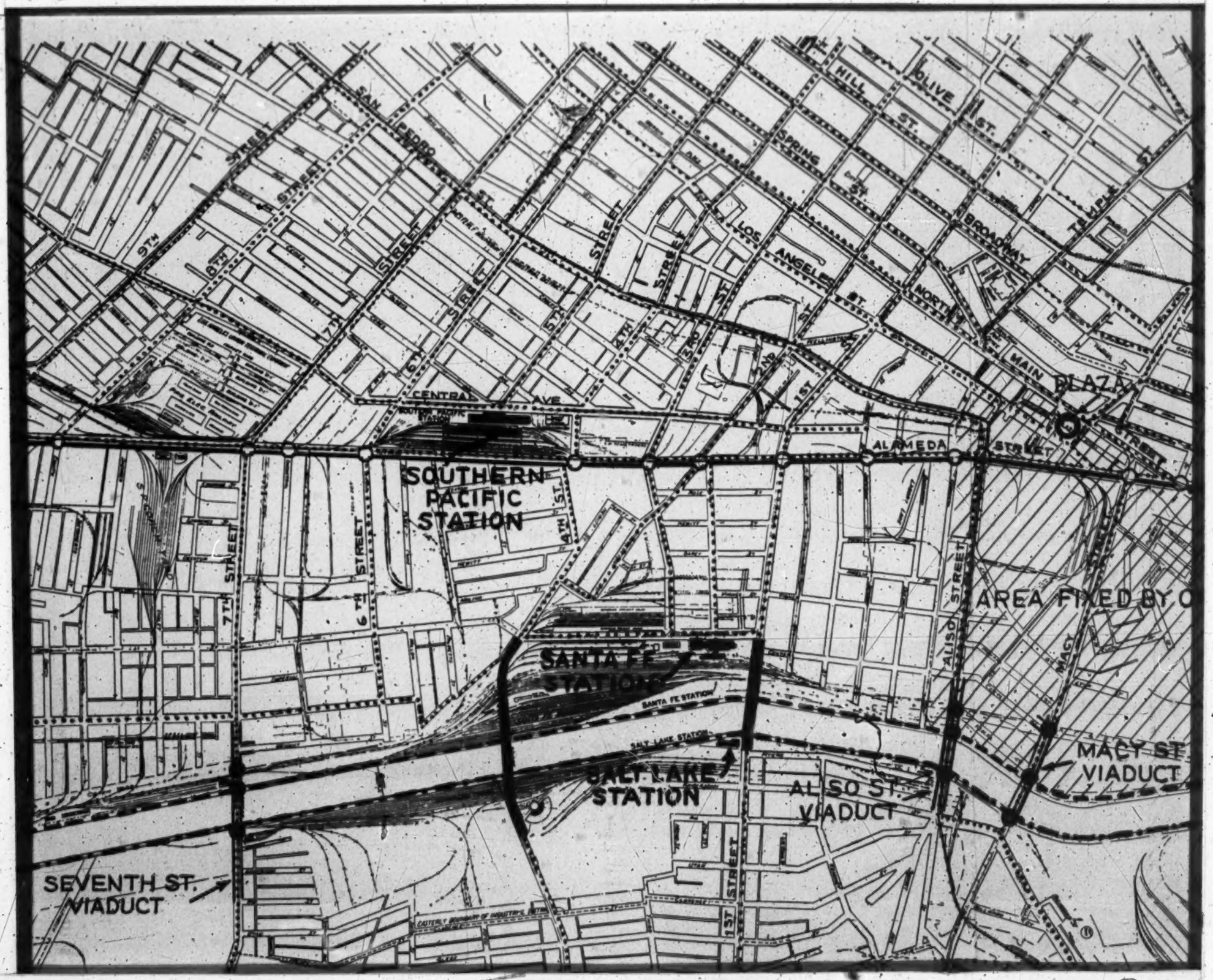
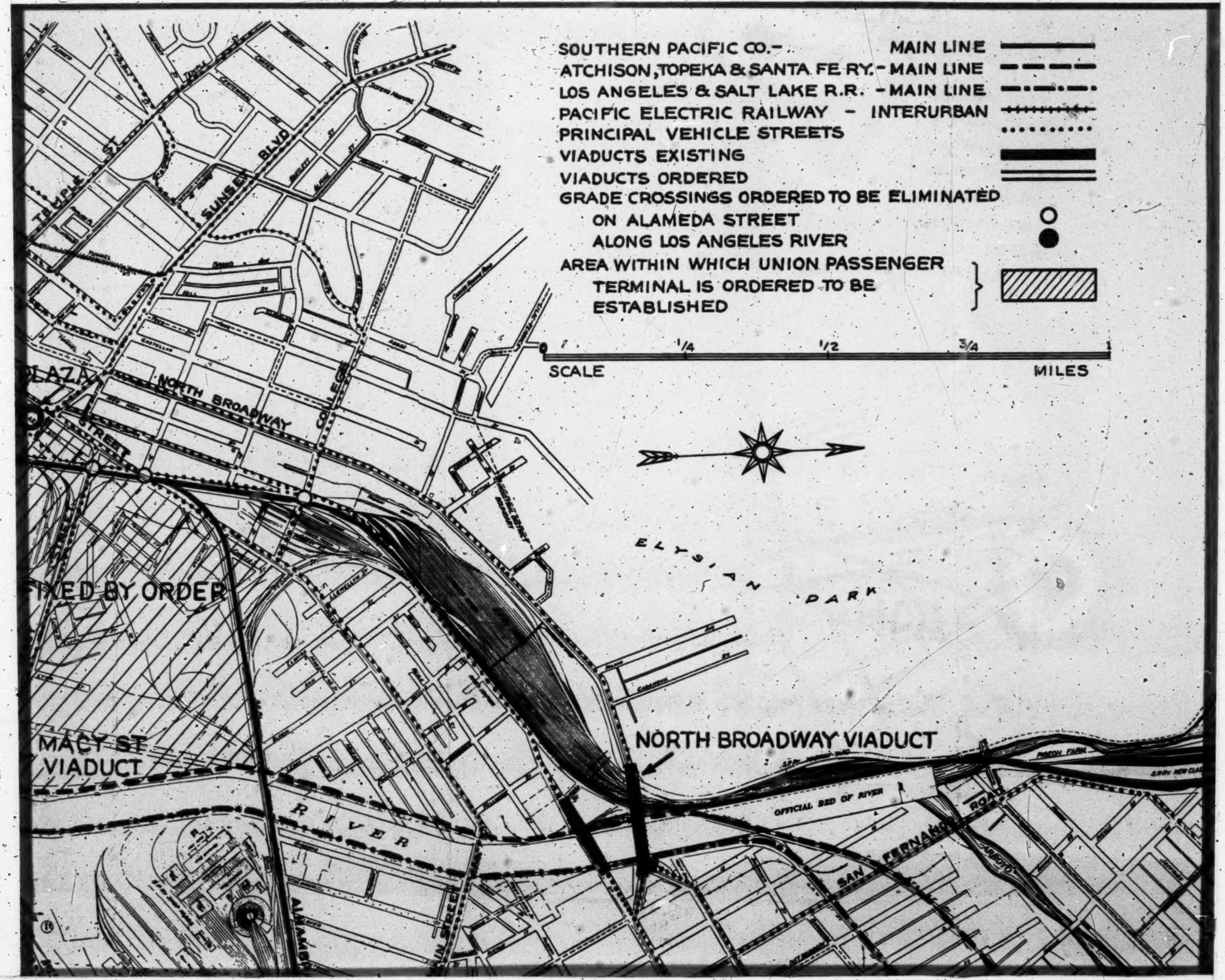
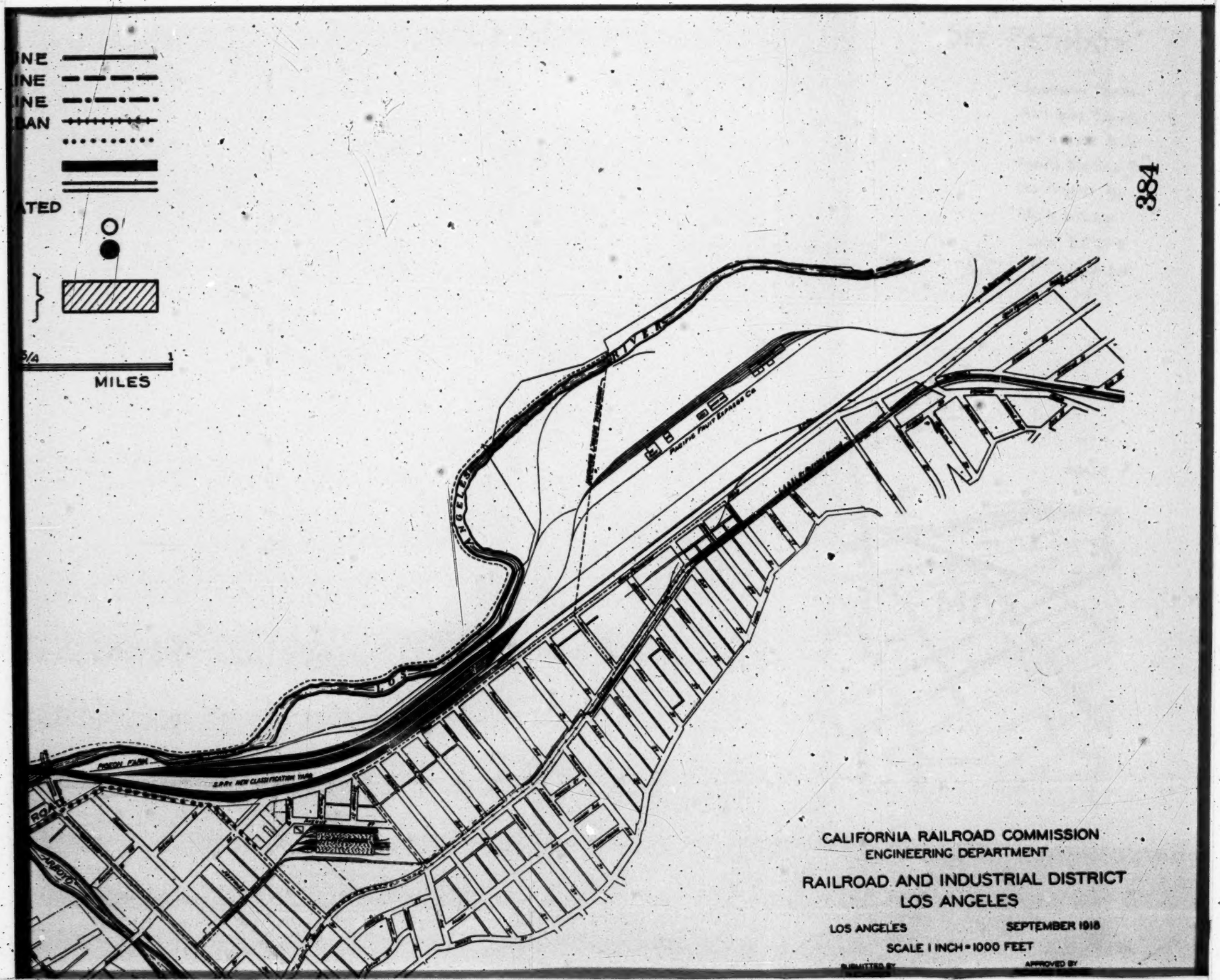
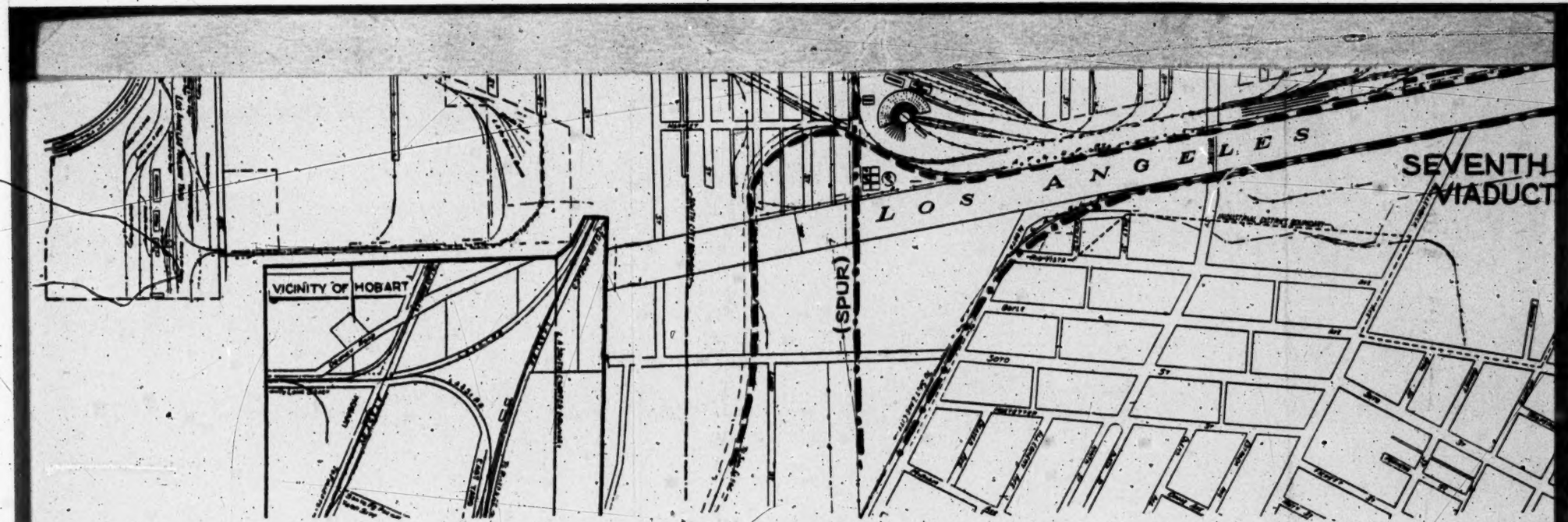
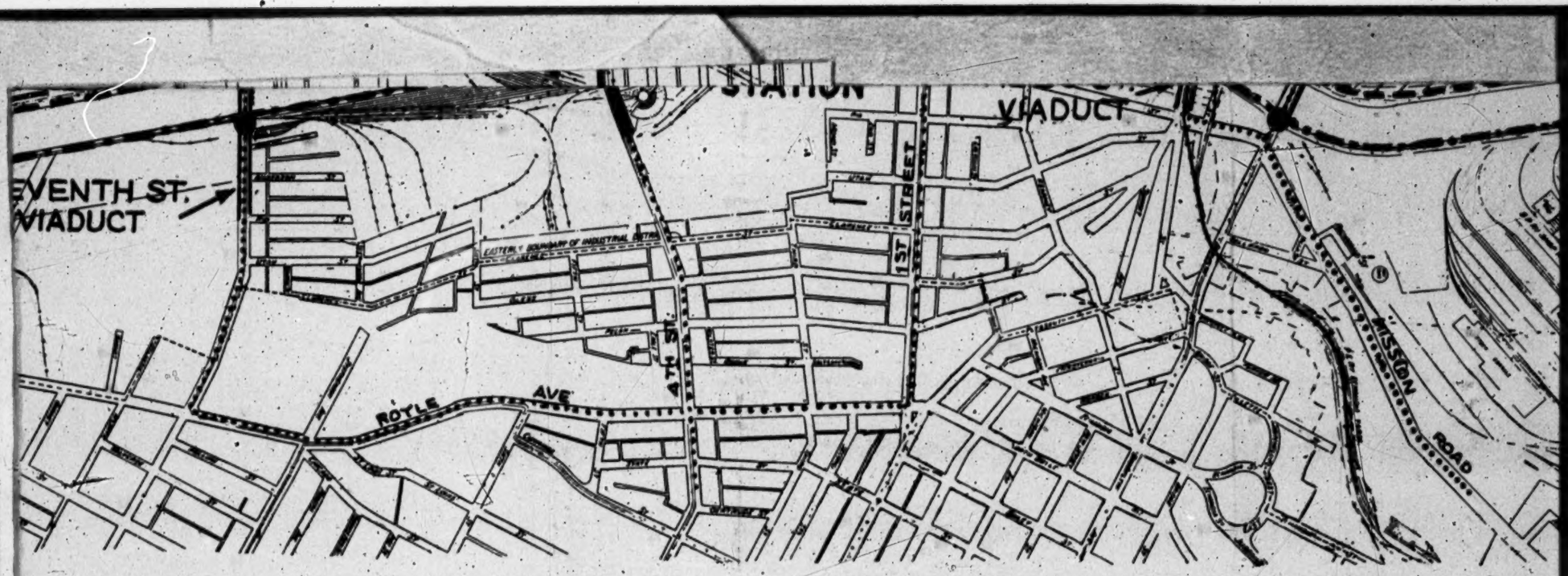
STREET
VERNON
LOS ANGELES
SPUR)
SANTA FE AVE
L O S A N G E L E S

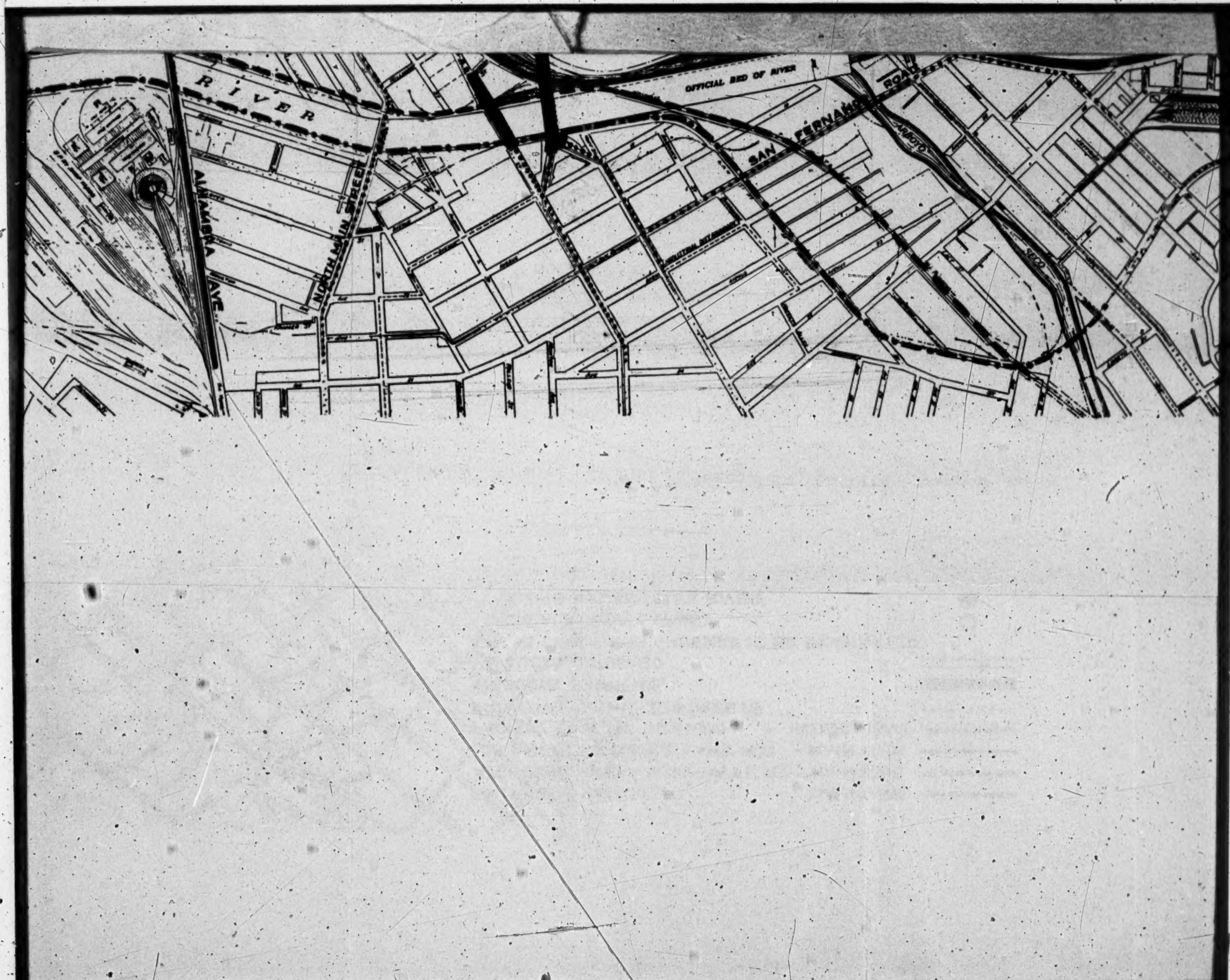

SOUTHERN PACIFIC STATION
SANTA FE STATION
SALT LAKE STATION
ALISO ST. VIADUCT
MACY ST. VIADUCT
SEVENTH ST. VIADUCT
AREA FIXED BY O
MAIN PLAZA
ALAMEDA STREET
CENTRAL AVE
SAN PEDRO STREET
SPRING ST.
HILL ST.
OLIVE ST.
BROADWAY
TEMPLE ST.
LOS ANGELES ST.
NORTH MAIN ST.
1ST STREET
4TH STREET
6TH STREET
7TH STREET
ALISO STREET
MACY

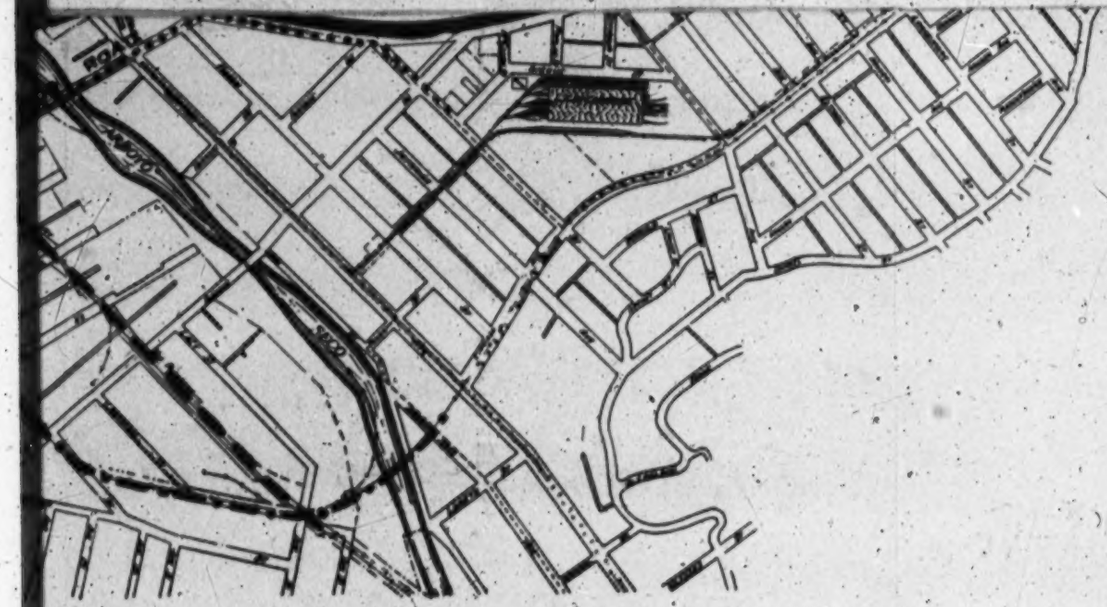

SOUTHERN PACIFIC CO.- MAIN LINE
ATCHISON, TOPEKA & SANTA FE RY.- MAIN LINE
LOS ANGELES & SALT LAKE R.R. - MAIN LINE
PACIFIC ELECTRIC RAILWAY - INTERURBAN
PRINCIPAL VEHICLE STREETS
VIADUCTS EXISTING
VIADUCTS ORDERED
GRADE CROSSINGS ORDERED TO BE ELIMINATED
ON ALAMEDA STREET
ALONG LOS ANGELES RIVER
AREA WITHIN WHICH UNION PASSENGER TERMINAL IS ORDERED TO BE ESTABLISHED
0
1/4
1/2
3/4
1
SCALE
MILES
TEMPLE ST
SUNSET BLVD
NORTH BROADWAY
COLLEGE
PLAZA
STREET
FIXED BY ORDER
ELYSIAN PARK
MACY ST VIADUCT
NORTH BROADWAY VIADUCT
RIVER
OFFICIAL BED OF RIVER
SAN FERNANDO
ARROYO
ALAMEDA
MAIN STREET


INE
INE
INE
BAN
ATED
3/4
1
MILES
384
PACIFIC FRUIT EXPRESS CO
PIGEON PARK
S.P.R.R. NEW CLASSIFICATION YARD
ROAD
SUMMIT
CALIFORNIA RAILROAD COMMISSION
ENGINEERING DEPARTMENT
RAILROAD AND INDUSTRIAL DISTRICT
LOS ANGELES
LOS ANGELES
SEPTEMBER 1918
SCALE 1 INCH = 1000 FEET
SUBMITTED BY
APPROVED BY


VICINITY OF HOBART
(SPUR)
LOS ANGELES
SEVENTH
VIADUCT


STATION
VIADUCT
EVENTH ST.
VIADUCT
EASTERLY BOUNDARY OF INDUSTRIAL DISTRICT
1ST STREET
4TH ST.
ROYLE
AVE
MISSION
ROAD


RIVER
OFFICIAL BED OF RIVER
ROAD
SAN FERNANDO
ALHAMBRA AVE.
NORTH MAIN STREET




CALIFORNIA RAILROAD COMMISSION
ENGINEERING DEPARTMENT

# RAILROAD AND INDUSTRIAL DISTRICT
# LOS ANGELES

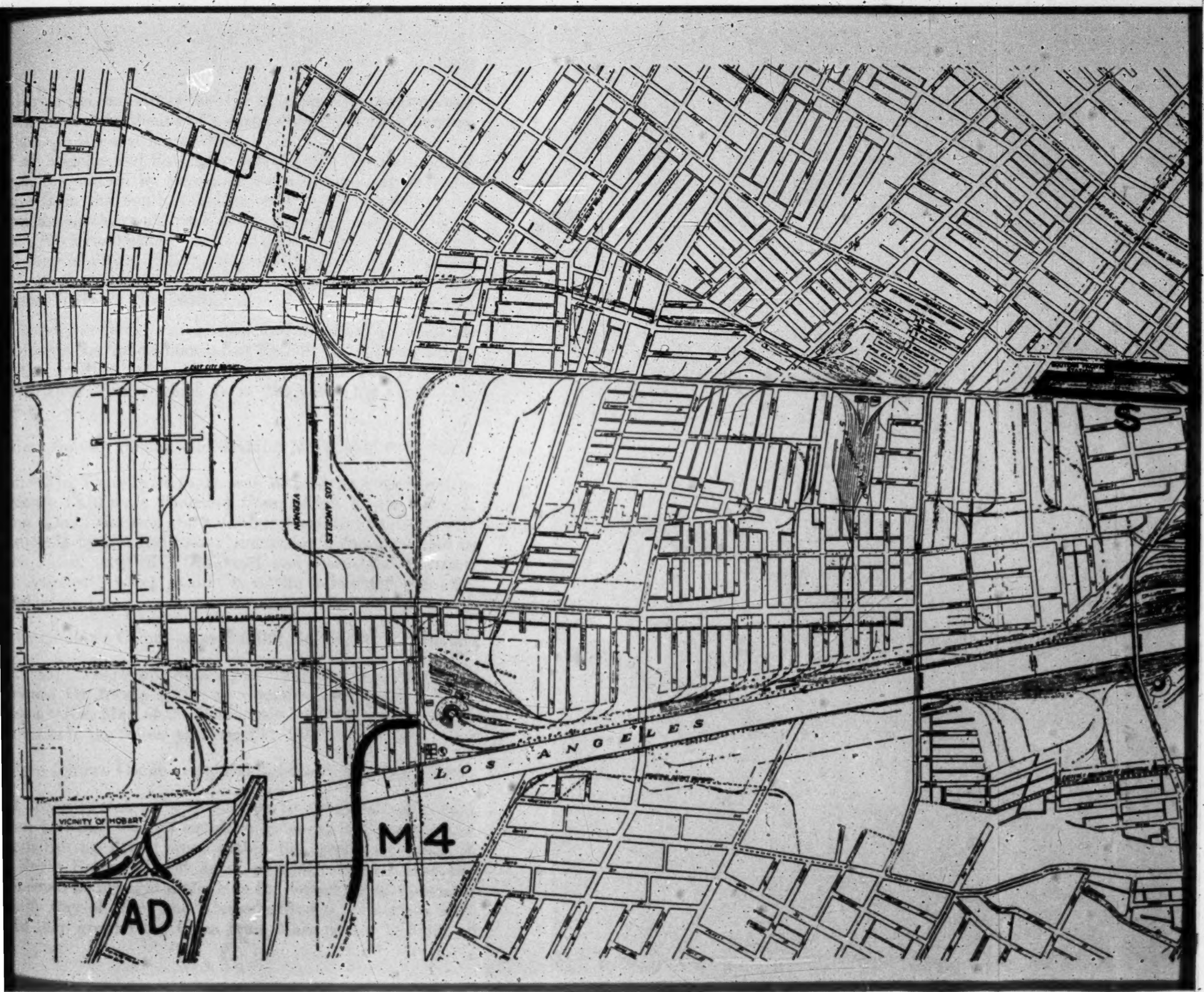
LOS ANGELES SEPTEMBER 1918

SCALE 1 INCH = 1000 FEET

SUBMITTED BY
H.G.WEEKS
ASSISTANT ENGINEER

APPROVED BY
RICHARD SACHSE
CHIEF ENGINEER

CALIFORNIA RAILROAD COMMISSION
EXHIBIT 5


VERNON
LOS ANGELES
LOS ANGELES
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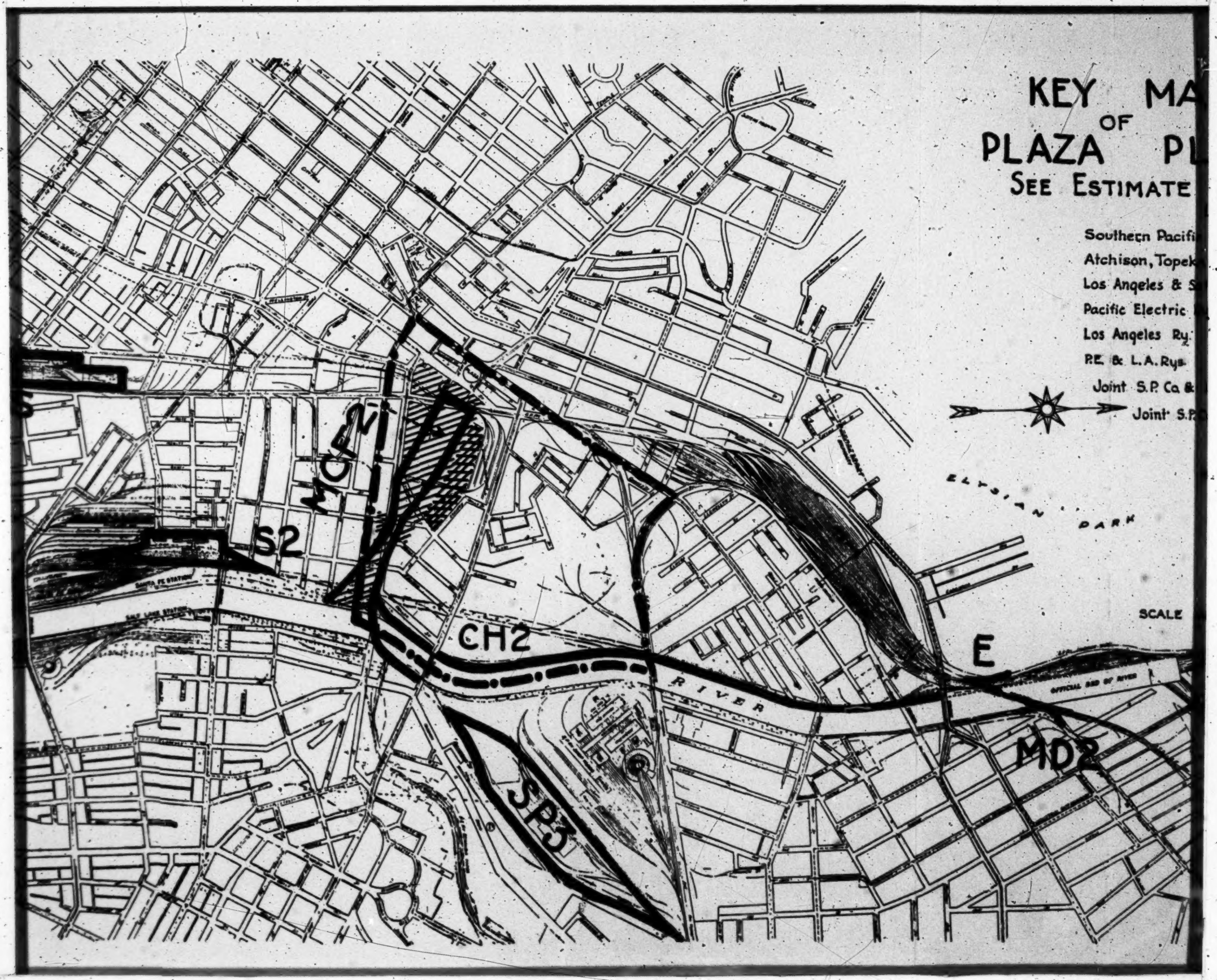
KEY MA
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PLAZA PL
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Southern Pacifi
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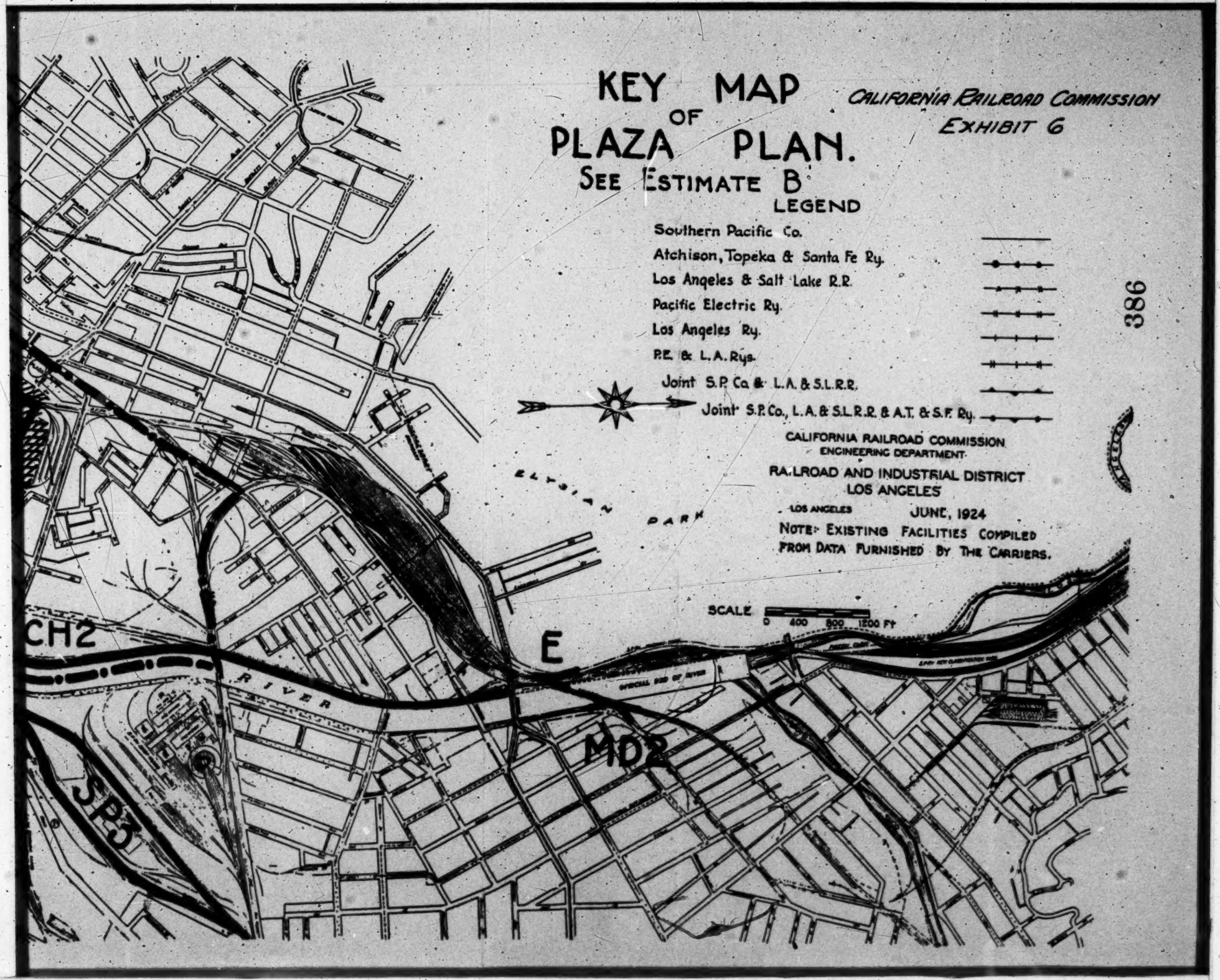
Los Angeles & S
Pacific Electric
Los Angeles Ry.
P.E. & L.A. Rys.
Joint S.P. Co. &
Joint S.P.
ELYSIAN PARK
SCALE
MCP
S2
CH2
E
RIVER
OFFICIAL END OF RIVER
MD2
SP3
SANTA FE STATION
SALT LAKE STATION


KEY MAP OF PLAZA PLAN.
SEE ESTIMATE B
CALIFORNIA RAILROAD COMMISSION
EXHIBIT 6
LEGEND
Southern Pacific Co.
Atchison, Topeka & Santa Fe Ry.
Los Angeles & Salt Lake R.R.
Pacific Electric Ry.
Los Angeles Ry.
P.E. & L.A. Rys.
Joint S.P. Co. & L.A. & S.L.R.R.
Joint S.P. Co., L.A. & S.L.R.R. & A.T. & S.F. Ry.
386
CALIFORNIA RAILROAD COMMISSION
ENGINEERING DEPARTMENT
RAILROAD AND INDUSTRIAL DISTRICT
LOS ANGELES
LOS ANGELES JUNE, 1924
NOTE: EXISTING FACILITIES COMPILED FROM DATA FURNISHED BY THE CARRIERS.
ELYSIAN PARK
SCALE
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CH2
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RIVER
MD2
SP3

and from the east either through or along side the proposed coach yard or by means of a connecting curve at Alhambra Avenue to the east bank tracks.

Los Angeles and Salt Lake trains from the north would reach the station by means of the east bank tracks while those from the south, together with the Santa Fe trains from the south, would pass along the west bank to the station. Each road would use its own coach yard, round house and shop facilities. The Southern Pacific coach yard would be located as indicated on the key map of the Plaza plan lettered "SP-3" (Tr. 2605).

Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 4, being a map entitled: "Plan for a Union Passenger Terminal at the Plaza June 1924", which is in the following form (Tr. 2596):

(Here follows Commission Exhibit No. 4, side folio 382)

[fol. 383] Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 5, being a map showing the location of existing stations and area fixed by the Railroad Commission's former order in these cases, entitled: "Railroad and Industrial District, Los Angeles", which exhibit is in the following form (Tr. 2606):

(Here follows Commission Exhibit No. 5, side folio 384)

[fol. 385] Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 6, being a "Key Map of the Commission's Plaza Plan", which exhibit is in the following form (Tr. 2607):

(Here follows Commission Exhibit No. 6, side folio 386)

[fol. 387] Street railway service to the proposed Plaza union terminal station could be given by terminating the North Spring Street lines within the grounds instead of on North Spring Street as at present. In this case the cars could be brought along side the concourse on the north side by way of Macy and Alameda Streets, or certain lines could loop around the Plaza from Main Street in front of

the station. The Los Angeles Railway Company now sends certain cars down Main Street which turn into Sunset and from there into North Spring Street. The Pacific Electric line could continue north from Aliso Street along Los Angeles Street to a stub terminal at the station. The Pacific Electric Railway operates a line of electric railway along Los Angeles Street turning into Aliso Street. Passengers from the Long Beach and other southern division trains of the Pacific Electric Railway Company reach the station by transferring at Sixth and Main; or direct service could be furnished, if desired, by way of San Pedro Street. Taxi cabs and autos could serve the station either at the upper or lower levels. These two levels are now connected by way of Los Angeles Street (Tr. 2609-2610, November 30, 1925).

If a union station were constructed in the Plaza area, the Arcade Station and the Santa Fe stations could be eliminated and devoted either to other railroad uses or sold (Tr. 2622).

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R. B. BALL was called as a witness on behalf of defendants and, having been duly sworn, testified as follows:

I am the Chief Engineer of the Atchison Topeka & Santa Fe Railway Company, Coast Lines. I have prepared a map showing the proposed track layout and tentative layout for a station at the Santa Fe site (Tr. 2988-2989).

I have made an estimate of the cost of the facilities shown on the map referred to so far as they require changes in existing facilities. The total cost of these facilities would be about $1,182,317. Against that figure there is a credit for salvage of $175,188. The net charge to capital account would be the difference of these two figures (Tr. 2990, January 7, 1926).

[fol. 388] Thereupon there was offered and admitted in evidence Atchison Topeka & Santa Fe's Exhibit No. 3, entitled: "Estimated cost of Proposed Depot, etc., for exclusive use of Santa Fe, Los Angeles", which is in the following form (Tr. 2992):

A., T. & S. F. Exhibit No. 3, Cases 970-971 et seq., Jan. 7, 1926

Estimated Cost of Proposed Depot, etc., for Exclusive Use of Santa Fe, Los Angeles

Office of Chief Engineer, Los Angeles, California, December, 1925

| | | |
|---|---|---|
| New work: | | |
| New Depot and Furnishings | 750,000 | |
| Platforms, 85000 sq. ft. @ 25c | 21,250 | |
| Add'l air, water, steam & sewer lines | 4,000 | |
| Signal Work | 2,000 | |
| Track subways 6 tracks | 50,000 | |
| Umbrella Sheds | 90,000 | |
| Electric lighting, additional | 2,500 | |
| Power Plant | 25,000 | |
| Paving, curbing, sidewalks | 5,000 | |
| | 949,750 | |
| Engr. contingencies, etc. | 189,950 | |
| | | 1,139,700 |
| Incidental operating expense: | | |
| Move 17065 ft. 90# track @ 40c | 6,826 | |
| " 35 turnouts @ $100. | 3,500 | |
| Renew 2000 ties @ $1.50 | 3,000 | |
| " 100 Kegs track spikes @ 5.60 | 560 | |
| Plug and reclaim ties | 600 | |
| Store expense 3% on $1160 | 35 | |
| Remove 14481 ft. of track retired @ 25c | 2,896 | |
| Remove 21 turnouts retired @ $50 | 1,050 | |
| Engineering | 800 | |
| Grading and leveling | 350 | |
| | 19,617 | |
| Clear site | 10,000 | |
| Landscape | 5,000 | |
| Rearrange old pipe lines | 2,000 | |
| Remove and renew signals | 1,500 | |
| " " " elec. lights | 1,000 | |

| | | |
|---|---|---|
| Move express building | 2,000 | |
| " P. O. " | 1,500 | |
| Total Incidental | | 42,617 |
| Total | | 1,182,317 |
| Less Credits | | 175,188 |
| Net Charge to A. & B. | | 1,007,129 |

[fol. 389] Credits to A. & B.

| | | |
|---|---|---|
| Retirements (ledger value): | | |
| 14481 ft. 75# track complete @ 1.80 | 26,066 | |
| 21 Frogs & Switches complete @ 205 | 4,305 | |
| Miscl. buildings, etc. | 102,200 | |
| Total Retirement | | 132,571 |
| Incidental operating expense: | | |
| As detailed | 42,617 | |
| Total Incidental | | 42,617 |
| Total Credits to A. & B. | | 175,188 |

Summary of Total Cost

| Class 17 | A. & B. | Retirement | Incidental | Total |
|---|---|---|---|---|
| Station Facilities | $1,007,129 | $132,571 | $42,617 | $1,182,317 |

[fol. 390] Geo. S. Hill, recalled as a witness on behalf of the California Railroad Commission and having been duly sworn, testified as follows:

I have prepared estimates of cost in connection with the Plaza plan for a Union Passenger Terminal for the steam railroads in Los Angeles (Tr. 3041, March 2, 1926).

Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 13 entitled "New Money required for Plaza Plan", which is in the following form (Tr. 3042):

Case 970

COMMISSION'S EXHIBIT No. 13

California Railroad Commission, Engineering Department, Transportation Division

New Money Required for Plaza Plan

| Item | Key | Amount |
|---|---|---|
| 1. Passenger Station and Facilities | MCF2 | $7,989,143 |
| 2. Coach Yards | SP3 | 416,780 |
| 3. New Trackage and Connections | E, MD2, M4, AD | 258,480 |
| Arroyo Seco Bridge, East Bank Freight line north of Macy Street and connections at Alhambra Ave | SP2, SL2 | 511,200 |
| Sub-total | | $9,175,603 |
| 4. Salvage value of Released Property: | | |
| Southern Pacific Station Site | S | 2,503,000# |
| Santa Fe Station Site | S2 | 950,000# |
| Total | | $5,722,603 |

# Credit.

G. S. H.
February, 1926.
(VIII-a.)

[fol. 391] Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 14, being entitled: "MCF2—Estimated Cost, Passenger Facilities Plaza Plan", which is in the following form (Tr. 3042):

Case 970

COMMISSION'S EXHIBIT No. 14

California Railroad Commission, Engineering Department, Transportation Division

MCF2—Estimated Cost, Passenger Facilities, Plaza Plan

| Item, description | Quantity | Unit | Per unit | Amount |
|---|---|---|---|---|
| 1. Excavation | 10,000 | C. Y. | .70 | $7,000 |
| 2. Fill | 150,000 | C. Y. | .21 | 31,500 |
| 3. Retaining Walls, concrete | 2,615 | C. Y. | 15. | 39,225 |
| 4. Tracks | 41,000 | Ft. | 5. | 205,000 |
| 5. Switches, Split | 40 | .... | 400. | 16,000 |
| 6. " Double Slip | 16 | .... | 1800. | 28,800 |

| Item, description | Quantity | Unit | Per unit | Amount |
|---|---|---|---|---|
| 7. Crossings | 21 | .... | 1200. | 25,200 |
| 8. Interlocking Equipment | ..... | .... | ..... | 250,000 |
| 9. Paving Curb and Gutter | ..... | .... | ..... | 107,500 |
| 10. Station Building | ..... | .... | ..... | 1,500,000 |
| 11. Umbrella Sheds | 7,000 | Ft. | 20. | 140,000 |
| 12. Drainage, Yard Lighting, Piping, etc. | ..... | .... | ..... | 136,000 |
| 13. Sub-total | ..... | .... | ..... | $2,485,225 |
| 14. Engineering, Interest and General—27% | ..... | .... | ..... | 671,280 |
| 15. Sub-Total | ..... | .... | ..... | $3,157,505 |
| 16. Land (approximately 39.65 acres) (including 12% interest) | ..... | .... | ..... | 3,140,364 |
| 17. Improvements on lands taken, (including 12% interest) | ..... | .... | ..... | 1,176,624 |
| 18. Aliso Street Bridge, including extra cost of viaduct | ..... | .... | ..... | 514,650 |
| Total | ..... | .... | ..... | $7,989,143 |

G. S. H.
February, 1926.
(IX-a.)

[fol. 392] One of the exhibits which will later be introduced by Mr. Hopkins gives a total number of scheduled trains of all the steam road lines entering Los Angeles as 78. Of these trains 69 per cent, or over two-thirds, enter and leave the city north of the Plaza. 42 of the 78 scheduled trains pass under the North Broadway Bridge. 12 of them enter and leave by way of Alhambra Avenue, and 24, or a little less than one-third, enter or leave the city from the south (Tr. 3065-3066).

The American Railway Engineering Association Committee on yards and terminals in 1923 prepared a valuable report upon the relation which should exist between business handled and the size of through passenger station facilities, made after thorough investigation of the adequacy of nearly all the principal terminals in the United States. This report shows, among other things, that the total area of lobby, concourse and all waiting rooms for a station handling one thousand passengers per busy hour, which is the approximate present volume at the Arcade Station, should be 25,600 square feet. In the Arcade Station there is 21,800 square feet. The approximate volume of passengers per busy hour at the Arcade Station is one thousand. For such an operation the American Railway Engineering Association's Committee report states there

should be 25,600 square feet. The Arcade Station, therefore, is four thousand square feet less than said Association stated would be proper and good practice.

For a station handling 500 passengers, the approximate present volume of the Santa Fe, the station area would be 15,200 square feet, making a total of 40,800 square feet required for separate facilities. According to the said report of the American Railway Engineering Association, 32,000 square feet would be required for a union station providing for 1500 passengers per busy hour. 8,800 square feet less would be required for the union station to handle 1500 passengers per busy hour than would be required to handle [fol. 393] these passengers under the separate facilities plan (Tr. 3069-3070, Mar. 2, 1926).

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E. P. McAuliffe was called as a witness on behalf of California Railroad Commission and, having been duly sworn, testified as follows:

I am Assistant Engineer of the California Railroad Commission in charge of land appraisals and have been employed continuously on valuation work and have been in charge of land appraisals since 1919. In that connection I have made appraisals of lands and rights of way of various public utilities throughout this state, and during the past five years have been engaged in valuing properties of a total value well in excess of 50,000,000 dollars (Tr. 3151-3152). I have made a valuation of the lands contained in the area embraced in the so-called Plaza plan which Mr. Hill has presented in this matter. Mr. Hill has included in his Exhibit No. 14, the figure being "land", figures given to him by me. The basis of the cost contained in Exhibit 14 is first the estimated present value of the land, plus cost of acquisition, including excess cost over present value and damages to the remaining lands not taken, if any; and 12 per cent interest during construction. The total market value of the lands comprised in the Plaza plan is $2,520,981. By adding the amounts mentioned above the value of the land plus these items is $3,140,364 (Tr. 3153).

I have made a study of the market value of the properties to be salvaged at the Santa Fe site, and estimate that value to be $950,000 (Tr. 3157).

I have made a study of the value of the land at the present Southern Pacific Arcade Station site. The total area is 689,500 square feet and the estimated salvage value of the properties is $3,103,000 (Tr. 3158). The salvage value of the station site is $2,503,000, the figure shown on Exhibit 13. This figure is approximately $600,000 less than the figure just testified to on account of the removal of the Arcade Station building, which is a debit to the land [fol. 394] salvaged, making the net salvage less (Tr. 3160, Mar. 2, 1926).

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JOHN E. COOPER was called as a witness on behalf of the California Railroad Commission and, having been duly sworn, testified as follows:

I am employed by the Railroad Commission of California in the Transportation Division of the Engineering Department, and have been in the employ of the Commission over six years. During that time I have been continuously engaged in the study of transportation matters, particularly the study of valuation of different railways and other public utilities. In connection with this case I have prepared an estimate of the value of the existing improvements upon the lands to be taken for the union passenger terminal shown on Commission's Exhibit No. 4. The amount of the value of the buildings thus found is $1,176,624. This figure represents improvements on land including 12 per cent interest, and is Item No. 17, used by Mr. Hill in Exhibit No. 14 (Tr. 3160-3162).

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A. G. MOTT was called as a witness on behalf of the California Railroad Commission and, having been duly sworn, testified as follows:

I am the Transportation Engineer of the California Railroad Commission. One of the important changes in the transportation situation at Los Angeles which has occurred since 1921 is that the Arcade Station of the Southern Pacific is now used jointly by the Los Angeles and Salt Lake Railroad under a temporary plan authorized by an

order of the California Commission, issued after an application by the interested carriers after hearings, the Commission's Decision being No. 13923. The Commission order contained, among others, the following conditions:

During the construction period of viaducts on the east bank of the Los Angeles River, applicants shall consult with this Commission and obtain its approval before diverting or routing freight traffic from Alameda Street to river [fol. 395] bank crossings, or vice versa; and shall comply with directions of the Commission made on its own initiative with respect to diverting or routing of freight traffic.

Applicants shall not use the granting of this application either by way of defense or argument on the ground of capital expenditure or any other ground against any order, or in any proceeding now or hereafter pending before this Commission or any other proceeding, court or public tribunal providing for or looking toward railroad or terminal unification in the City of Los Angeles.

The Commission reserves the right to make such other and further orders herein relative to the location, construction, operation, maintenance and protection of said crossings, or to the diverting or routing of freight or other traffic over them or any of them as to it may seem right and proper, and to revoke the permission hereby granted if, in its judgment, public convenience and necessity at any time demand such action (Tr. 3169-3170).

In 1860 the population of Los Angeles was 3700; in 1870 it was 5728; in 1880, 11090; in 1890, 50395; in 1900, 102,459; in 1910, 310,198; in 1915, 470,000; in 1920, 576,673; in 1921, 745,000; in 1922, 875,600; in 1923, 1,070,000; in 1924, 1,182,000. This shows a most remarkable growth from 1921 to 1923 (Tr. 3183).

[fol. 396] Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 19, being entitled: "Summary Vehicular Traffic Across Alameda Street," which is in the following form (Tr. 3187):

Case 970

COMMISSION'S EXHIBIT No. 19

California Railroad Commission, Engineering Department, Transportation Division

## Summary

## Vehicular Traffic Across Alameda Street

| (1) Street | (2) 1918 | (3) 1923 | (4) Per cent increase 1923 over 1918 | (5) January, 1926 | (6) Per cent increase 1926 over 1918 | (7) Street railway traffic, 1926 |
|---|---|---|---|---|---|---|
| N. Main | 4,508 | 9,370 | 108 | 12,487 | 177 | 241 |
| Macy | 3,017 | 5,867 | 94 | 2,396 | 21# | 351 |
| Los Angeles | 2,040 | 6,084 | 198 | 8,495 | 316 | ... |
| Aliso | 3,417 | 7,186 | 110 | 13,845 | 305 | 817 |
| First | 4,456 | 17,321 | 289 | 13,379 | 200 | 537 |
| Second | 2,247 | 5,132 | 128 | 7,170 | 219 | 301 |
| Third | 4,852 | 10,005 | 106 | 7,042 | 45 | 307 |
| Fourth | 3,986 | 9,855 | 147 | 8,827 | 121 | ... |
| Sixth | 2,548 | 6,388 | 151 | 8,174 | 221 | ... |
| Seventh | 6,249 | 11,604 | 86 | 11,762 | 88 | 810 |

| | | | | | | |
|---|---|---|---|---|---|---|
| Eighth | 566 | 1,793 | 217 | 3,926 | 594 | ... |
| Ninth | 3,028 | 13,095 | 332 | 18,773 | 520 | ... |
| Sub-total | 40,914 | 103,700 | 153 | 116,276 | 184 | 3,364 |
| Twenty-fifth | ..... | ..... | ... | 5,282 | ... | ..... |
| Total | 40,914 | 103,700 | 153 | 121,558 | ... | 3,364 |

P. A. N.
2-16-26.

#Decrease.

[fol. 397]. Exhibit 19 represents daily figures, that is a 14-hour period from 6 a. m. to 8 p. m. in all cases. The checks in 1923 were taken in June and the checks in 1918 were taken in February, with the exception of Seventh Street, which was taken in May and Ninth Street, which was taken in March. They were all week days, no Sundays or holiday traffic included in any of these figures, and they represent normal week day traffic for the hours of 6 a. m. to 8 p. m. for the locations and in the years taken. The figures on Exhibit 19 show a very remarkable increase in much of the traffic. There has been a continued increase in the traffic at every one of these intersections, with the exception of Macy Street. The light traffic at Macy Street is, of course, explained by the fact that the Macy Street Bridge is now not open for traffic across the River, and therefore, the present traffic of Macy Street is only the local traffic which is destined to or originates in that industrial area between Macy Street and the River (Tr. 3189).

A check of traffic at Fourth Street and south of Fourth Street shows a marked increase as to railroad traffic. The crossings at Fourth and Sixth Streets themselves are affected primarily by the switching movements incident to passenger train operations at the Arcade Station. These crossings, together with those southerly from Sixth have their increase in railroad traffic largely explained by the diversion of the Salt Lake trains into the Arcade Station (Tr. 3192). Alameda Street as a whole shows a 30 per cent increase in railroad traffic as compared with 1918, but only a 2 per cent increase as compared with 1923. The vehicular traffic along Alameda Street is more than five times as great as it was in 1918, an increase of 562 per cent. It thus appears that the congestion which was ad-
[fol. 398] mitted by all parties in 1918 to be so serious as to demand relief has now become very much more serious (Tr. 3193, March 3, 1926).

Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No 22, being entitled: "Automobile Registration Statistics Growth in Automobile Registration," which is in the following form (Tr. 3196):

[fol. 399]

Case 970

COMMISSION EXHIBIT No. 22

California Railroad Commission, Engineering Department, Transportation Division

Automobile Registration Statistics—Growth in Automobile Registration

| County | 1914 | 1918 | 1923 | Per cent increase 1923 over 1918 | 1925 | Per cent increase 1925 over 1918 |
|---|---|---|---|---|---|---|
| Los Angeles | 43,099 | 107,232 | 425,582 | 297 | 578,298 | 439 |
| Orange | 3,761 | 9,430 | 32,604 | 246 | 35,177 | 273 |
| San Bernardino | 3,198 | 8,342 | 23,711 | 184 | 31,305 | 275 |
| Ventura | 1,410 | 3,763 | 9,865 | 162 | 12,599 | 235 |
| Sub-total | 51,468 | 128,767 | 491,762 | 282 | 657,379 | 410 |
| Balance of State | 72,048 | 236,033 | 608,521 | 158 | 783,162 | 232 |
| Total State | 123,516 | 364,800 | 1,100,283 | 202 | 1,440,541 | 295 |
| Percentage of total registrations in Los Angeles Co. | 35 | 29 | 39 | .... | 40 | .... |
| In 4 Cos. shown | 42 | 35 | 45 | .... | 46 | .... |

Data obtained from records of Motor Vehicle Division—State of California

Figures include trucks but exclude motorcycles and trailers.

P. A. N.
2-16-26
(5)

[fol. 400] Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 23, being entitled: "Delays to Traffic at Alameda Street Crossings 1918 and 1923", which is in the following form (Tr. 3198):

Case 970

COMMISSION'S EXHIBIT No. 23

California Railroad Commission, Engineering Department, Transportation Division

Delays to Traffic at Alameda Street Crossings, 1918 and 1923

| Location | 1918 | 1923 | Increase | |
|---|---|---|---|---|
| | | | Time | Per cent |
| No. Spring St. | # | 1 hr. 14' 31" | ..... | ..... |
| No. Main St. | # | 1 hr. 4' 14" | ..... | ..... |
| Macy St. | 1 hr. 9' 05" | 1 hr. 31' 11" | 31' 11" | 32% |
| Los Angeles St. | # | 1 hr. 26' 10" | ..... | ..... |
| Aliso St. | 1 hr. 19' 30" | 2 hr. 7' 43" | 43' 13" | 61% |
| First St. | 1 hr. 15' 0" | 2 hr. 13' 10" | 58' 10" | 78% |
| Second St. | 1 hr. 33' 0" | 1 hr. 24' 55" | 8' 5" | 2%9* |
| Third St. | 1 hr. 41' 50" | 1 hr. 59' 30" | 17' 40" | 17% |
| Fourth St. | 1 hr. 18' 40" | 3 hr. 44' 37" | 2 hr. 25' 57" | 186% |
| Sub-total | ..... | 16 hr. 46' 1" | ..... | ..... |
| Sixth St. | 2 hr. 15' 45" | 3 hr. 44' 30" | 1 hr. 28' 45" | 65% |
| Seventh St. | 0 hr. 54' 00" | 1 hr. 38' 32" | 44' 32" | 82% |
| Eighth St. | # | 0 hr. 59' 28" | ..... | ..... |
| Ninth St. | 0 hr. 28' 35" | 1 hr. 12' 45" | 44' 10" | 155% |
| Sub total | ..... | 7 hr. 35' 15" | ..... | ..... |
| Total | ..... | 24 hr. 21' 16" | ..... | ..... |

A. A. A.
7-3-23.
(5a.)

#No record.
*Decrease.

[fol. 401] Exhibit 23 shows delays of traffic from 6 a. m. to 8 p. m. (Tr. 3198).

Not only is it generally conceded that this matter of congestion and inconvenience of the Alameda Street grade crossing situation is so intolerable that relief must be afforded, but, as I understand it, the general manner of affording that relief is fairly well agreed upon by all concerned; that is, that the through train movements, steam

railroad movements should be eliminated along Alameda Street. The tracks themselves, all are pretty well agreed, should remain in order to accommodate the industrial switching to the number of industries, I think nearly 300 in number, that are served by that track along Alameda Street. With the removal of the through trains and coach and engine movements along Alameda Street, and the restriction of the industrial switching to night hours when the vehicular traffic is relatively light, I believe that it can be said that the Alameda Street situation, now so serious, would be corrected. Now, in order to accomplish this general plan of relief, as I understand it, there are two general principles, or plans of applying that. One would be by the construction of a viaduct, overhead railroad, that is, to take the trains off the street, to bring them in other than at grade to the Southern Pacific station, and thereby leave the actual terminal facilities at that site, and at the Santa Fe site substantially as they are. The other is to so change the steam railroad terminal facilities that use would no longer be made of the Arcade site for that purpose (Tr. 3199-3200).

The Santa Fe's passenger station is not inherent in the consideration of the relief of Alameda Street itself. It thus appears to me that the underlying problem of this situation is not a question of whether there should be a union station. It is a question of the manner of providing adequate trunk line terminal facilities in Los Angeles in such a manner that the relief will be had to the intolerable grade crossing situation, particularly along Alameda [fol. 402] Street. In determining the precise manner in which this general problem should be solved, regard must be given to the adequacy of those terminal facilities that are to be had, the accessibility and convenience of those facilities to the public, the convenience and economy of railroad operation at the facilities, and the economy of construction. No one factor in my opinion should be used as the controlling test in the solution. Analyzing a little further the proposition and plans for relief, there seem to be now three specific proposals before the Commission, namely, one the carriers' proposal to use the existing facilities, or station facilities for terminals for the steam rail-

roads, modified by giving the railroads access to the Arcade site by means of a viaduct, or overhead elevated railroad to the east bank of the river and coming into the Arcade site from the south, making that site a stub terminal. Another is the establishment of the union station on the east bank of the river. The other general proposal is the establishment of a union station on the west side of the river north of First Street in the general portion of the site known as the Plaza area. In connection with the Alameda Street traffic, the diversion of the Salt Lake trains to Alameda Street and the diversion of a large portion of freight movements on the Southern Pacific from Alameda Street, a portion of one of the plans has been actually put into effect, namely, the bringing of two of these carriers into one facility, and the Santa Fe operating with a separate facility. But this temporary arrangement, of course, so far, in the way it has been effected, has resulted in a still further interference on Alameda Street as a whole (Tr. 3200, 3201, 3202).

Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 24, being entitled: "Comparison of Scheduled and Actual Through Passenger Train Movements in and out of Los Angeles," which is in the following form (Tr. 3202):

Case 970

COMMISSION'S EXHIBIT No. 24

California Railroad Commission, Engineering Department, Transportation Division

Comparison of Scheduled and Actual Through Passenger Train Movements In and Out of Los Angeles

Arriving Trains

| Year | Southern Pacific | | | Santa Fe | | | Union Pacific | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Regular trains | Extra trains & addit. sections | Total | Regular trains | Extra trains & addit. sections | Total | Regular trains | Extra trains & addit. sections | Total | Total all trains |
| 1914 | 5,147 | 148 | 5,295 | 3,343 | 141 | 3,484 | 1,077 | 4 | 1,081 | 9,860 |
| 1915 | 5,901 | 617 | 6,518 | 4,354 | 938 | 5,292 | 1,095 | 78 | 1,173 | 12,983 |
| 1916 | 6,051 | 110 | 6,161 | 4,247 | 291 | 4,538 | 1,079 | 15 | 1,094 | 11,793 |
| 1917 | 6,200 | 272 | 6,472 | 4,109 | 374 | 4,483 | 1,078 | 36 | 1,114 | 12,069 |
| 1918 | 5,779 | 216 | 5,995 | 3,567 | 273 | 3,840 | 878 | 0 | 878 | 10,713 |
| 1919 | 5,194 | 499 | 5,693 | 3,261 | 279 | 3,540 | 721 | 126 | 847 | 10,080 |
| 1920 | 5,426 | 936 | 6,362 | 3,694 | 470 | 4,164 | 973 | 248 | 1,221 | 11,747 |
| 1921 | 6,230 | 110 | 6,340 | 3,752 | 204 | 3,956 | 1,094 | 47 | 1,141 | 11,437 |
| 1922 | 5,837 | 268 | 6,105 | 3,604 | 328 | 3,932 | 1,095 | 53 | 1,148 | 11,185 |
| 1923 | 6,235 | 424 | 6,659 | 3,633 | 523 | 4,156 | 1,095 | 129 | 1,224 | 12,039 |
| 1924 | 6,337 | 228 | 6,565 | 3,651 | 484 | 4,135 | 1,098 | 155 | 1,253 | 11,953 |
| 1925 | 6,570 | 202 | 6,772 | 3,634 | 497 | 4,131 | 1,095 | 178 | 1,273 | 12,176 |

COMMISSION'S EXHIBIT No. 24—Continued

## Departing Trains

| Year | Southern Pacific | | | Santa Fe | | | Union Pacific | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| | Regular trains | Extra trains & addit. sections | Total | Regular trains | Extra trains & addit. sections | Total | Regular trains | Extra trains & addit. sections | Total | Total all trains |
| 1914 | 5,259 | 66 | 5,325 | 3,371 | 92 | 3,463 | 1,077 | 5 | 1,082 | 9,870 |
| 1915 | 5,900 | 666 | 6,566 | 4,380 | 827 | 5,207 | 1,095 | 32 | 1,127 | 12,900 |
| 1916 | 6,035 | 141 | 6,176 | 4,238 | 253 | 4,491 | 1,082 | 15 | 1,097 | 11,764 |
| 1917 | 6,202 | 302 | 6,504 | 4,218 | 348 | 4,566 | 1,088 | 7 | 1,095 | 12,165 |
| 1918 | 5,779 | 204 | 5,983 | 3,590 | 277 | 3,867 | 879 | 0 | 879 | 10,729 |
| 1919 | 5,196 | 524 | 5,720 | 3,250 | 237 | 3,487 | 720 | 63 | 783 | 9,990 |
| 1920 | 5,428 | 983 | 6,411 | 3,705 | 417 | 4,122 | 974 | 237 | 1,211 | 11,744 |
| 1921 | 6,230 | 124 | 6,354 | 3,776 | 234 | 4,010 | 1,093 | 39 | 1,132 | 11,496 |
| 1922 | 5,837 | 266 | 6,103 | 3,618 | 348 | 3,966 | 1,095 | 66 | 1,161 | 11,230 |
| 1923 | 6,236 | 431 | 6,667 | 3,648 | 506 | 4,154 | 1,095 | 101 | 1,196 | 12,017 |
| 1924 | 6,336 | 250 | 6,586 | 3,659 | 506 | 4,165 | 1,098 | 145 | 1,243 | 11,994 |
| 1925 | 6,570 | 203 | 6,773 | 3,648 | 535 | 4,183 | 1,095 | 150 | 1,245 | 12,201 |

P. A. N.
Feb., 1926.
(6.)

[fol. 404] Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 25, being entitled: "Passengers Handled by Steam Railroads in and out of Los Angeles for Typical Week 1926," which is in the following form (Tr. 3203):

Case 970

COMMISSION'S EXHIBIT No. 25

California Railroad Commission, Engineering Department, Transportation Division

Passengers Handled by Steam Railroads in and Out of Los Angeles for Typical Week, 1926

| | Southern Pacific Company | | | Santa Fe | | | Salt Lake | | |
|---|---|---|---|---|---|---|---|---|---|
| Jan., 1926 | Arrive | Depart | Total | Arrive | Depart | Total | Arrive | Depart | Total |
| 17, Sunday | 2,217 | 1,936 | 4,153 | 1,489 | 1,152 | 2,641 | 388 | 240 | 628 |
| 18, Monday | 1,886 | 1,578 | 3,464 | 1,420 | 913 | 2,333 | 583 | 251 | 834 |
| 19, Tuesday | 1,694 | 1,488 | 3,182 | 1,015 | 845 | 1,860 | 289 | 195 | 484 |
| 20, Wednesday | 1,741 | 1,456 | 3,197 | 1,135 | 837 | 1,972 | 310 | 268 | 578 |
| 21, Thursday | 1,710 | 1,587 | 3,297 | 1,034 | 904 | 1,938 | 245 | 177 | 422 |
| 22, Friday | 1,826 | 1,549 | 3,375 | 1,271 | 894 | 2,165 | 327 | 197 | 524 |
| 23, Saturday | 1,923 | 1,587 | 3,510 | 1,296 | 781 | 2,077 | 347 | 207 | 554 |
| Total, 7 days | 12,997 | 11,181 | 24,178 | 8,660 | 6,326 | 14,986 | 2,489 | 1,535 | 4,024 |
| Average 1 Day | 1,857 | 1,597 | 3,458 | 1,237 | 904 | 2,141 | 356 | 229 | 585 |
| Maximum Day | 2,217 | 1,936 | 4,153 | 1,489 | 1,152 | 2,641 | 583 | 268 | 834 |
| Total per year based on above | 677,804 | 581,412 | 1,257,256 | 450,320 | 328,952 | 774,592 | 129,428 | 79,820 | 209,248 |

P. A. N.
(7).
2-17-23.

[fol. 405] Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 26, being entitled: "Comparison of Passengers Handled by Steam Railroads in and out of Los Angeles for Typical Week in Years 1918, 1923 and 1926", which is in the following form (Tr. 3204):

Case 970

COMMISSION'S EXHIBIT No. 26.

California Railroad Commission, Engineering Department, Transportation Division

Comparison of Passengers Handled by Steam Railroads in and Out of Los Angeles for Typical Week in Years 1918, 1923, and 1926

| Day | Total all steam railroads, 1918 | Total all steam railroads, 1923 | Total all steam railroads, 1926 | Per cent increase 1926 over 1918 |
|---|---|---|---|---|
| Sunday | 8,056 | 10,251 | 7,422 | 8* |
| Monday | 7,454 | 9,449 | 6,681 | 11* |
| Tuesday | 7,114 | 10,106 | 5,526 | 22* |
| Wednesday | 6,733 | 9,783 | 5,747 | 15* |
| Thursday | 6,557 | 9,982 | 5,657 | 14* |
| Friday | 6,696 | 10,038 | 6,064 | 9* |
| Saturday | 7,839 | 10,842 | 6,141 | 22* |
| Total—7 days | 50,449 | 70,451 | 43,188 | 14* |
| Average—1 Day | 7,213 | 10,066 | 6,170 | 14* |
| Maximum Day | 8,056 | 10,842 | 7,422 | 8* |
| Total per year based on above | 2,625,428 | 3,663,452 | 2,245,776 | 14* |

* Decrease.

Per cent of Total on Each Railroad

| | | | |
|---|---|---|---|
| Southern Pacific | 52 | 52 | 56 |
| Santa Fe | 38 | 36 | 35 |
| Salt Lake | 10 | 12 | 9 |
| Total | 100 | 100 | 100 |

P.A.N.
February, 1926.
(7-a.)

[fol. 406] Exhibit 24 shows the actual number of passenger trains operating for distances of 100 miles or more

from Los Angeles. That is my definition of the word "through train" as used in that exhibit. 1915 was the peak year. This was due probably to the Exposition being held in San Francisco and San Diego in that year, and that a large number of tourists came to California for these Expositions. Two years later, in 1917, there was another heavy movement, due probably to the flourishing business conditions due to the War. In more recent years there has been a gradual tendency to increase beginning with 1918. In my opinion this increase will continue in a moderate rate about as established by this trend from 1918 to 1925 (Tr. 3202-3203).

Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 27, being entitled: "Comparison of Annual ticket sales in Los Angeles", which is in the following form:

Case 970

COMMISSION'S EXHIBIT No. 27

California Railroad Commission, Engineering Department, Transportation Division

Comparison of Annual Ticket Sales in Los Angeles

| | 1917 | 1922 | 1925 | 1925 in per cent of 1917 |
|---|---|---|---|---|
| Local sales: | | | | |
| Southern Pacific | 338,820 | 254,437 | 219,402 | .65 |
| Santa Fe | 170,107 | 149,416 | 121,771 | .71 |
| Salt Lake | 61,679 | 22,987 | 15,425 | .24 |
| Total | 570,606 | 426,840 | 356,598 | .63 |
| Interline sales: | | | | |
| Southern Pacific | 52,408 | 50,107 | 60,579 | 1.15 |
| Santa Fe | 52,352 | 58,383 | 79,660 | 1.52 |
| Salt Lake | 21,516 | 27,159 | 36,461 | 1.69 |
| Total | 126,276 | 135,649 | 176,700 | 1.40 |
| Combined sales: | | | | |
| Southern Pacific | 391,228 | 304,544 | 279,981 | .72 |
| Santa Fe | 222,459 | 207,799 | 201,431 | .90 |
| Salt Lake | 83,195 | 50,146 | 51,886 | .62 |
| Total | 696,882 | 562,489 | 533,298 | .77 |

EFM.
February, 1926.
(7-c.)

[fol. 407] The last column of Exhibit 27 is headed wrong. It should be corrected to "The ratio of 1925 to 1917" the decimal point should be placed after the figures. This shows a substantial decrease in the local sales of these carriers. That, of course, is to be expected in view of the fact that very substantial decreases have been made in a strictly local train service of these companies. The interline ticket sales in all cases show a marked increase, averaging 40 per cent. Practically all of these sales represent long distance travel and these increases are more nearly representative of the growth of the actual passenger movements than any other figures available (Tr. 3205-3206).

Exhibit 27, in my opinion, is not a conclusive measure of the growth or fluctuation of passenger travel because the exhibit does not include any passengers who purchased their tickets in other locations. In the event more passengers come to Los Angeles than leave, they would not be reflected in these figures. Nor does it include any round trip sales sold outside of Los Angeles at periods or seasons in which carriers would make a drive in the east to encourage tourist travel by favorable round trip rates, the travel would be very substantially increased without showing any difference in these figures by reported sales in Los Angeles (Tr. 3206-3207).

Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 28, being entitled "Statement showing Normal and Maximum Number of Passengers handled in and out of Los Angeles for a Period of Sixty Minutes January, 1926," which is in the following form (Tr. 3207):

COMMISSION'S EXHIBIT 28

California Railroad Commission, Engineering Department, Transportation Division.

Statement Showing Normal and Maximum Number of Passengers Handled in and out of Los Angeles for a Period of Sixty Minutes, January, 1926

| Company | Normal day | Maximum day |
|---|---|---|
| Southern Pacific Co. | 847 | 973 |
| Santa Fe | 482 | 560 |
| Salt Lake | 179 | 304 |
| Total | 1,508 | 1,837 |

P. A. N.
February, 1926.
(7-b.)

Since the first decision of the Commission in these proceedings, certain changes have taken place in the situation along the Los Angeles River in respect to the construction of viaducts.

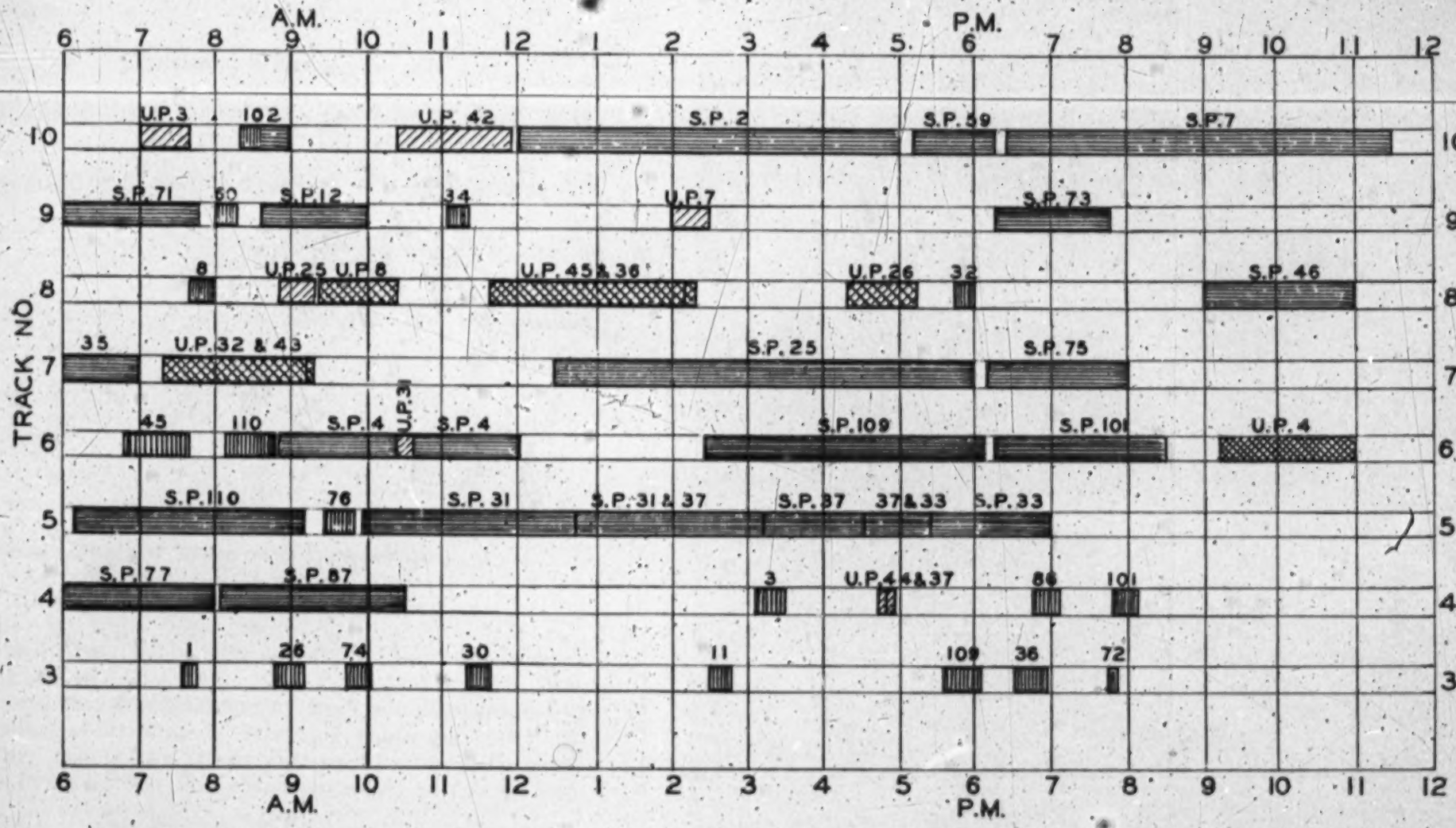
On January 7, 1924, a joint application was filed with the Commission wherein the County of Los Angeles, City of Los Angeles, The Atchison, Topeka and Santa Fe Railway Company, Los Angeles & Salt Lake Railroad Company, Pacific Electric Railway Company and the Los Angeles Railway Corporation asked the Commission to authorize the construction of viaducts across the Los Angeles River and the railroad tracks on each side of the river at Macy Street, Alisc Street, First Street, Fourth Street, Seventh Street and Ninth Street, respectively. The petition also asked that the Commission apportion the costs of these viaducts between the parties. Hearings were held in February and March, 1924, which were largely confined to the consideration of the Ninth Street viaduct and the Commission approved the plans for this viaduct. Later, in July, 1924, the Commission approved the plan for the Macy Street viaduct, in so far as it related to the main railway span and the east

[fol. 409] approach. In February, 1926, the Commission, by its Decision 16029, approved the plan for the Seventh Street viaduct and apportioned the cost of construction among the parties. The next move would be for the applicants to file plans for one of the other proposed viaducts (Tr. 3177-3180).

I have made a study of the adequacy of the present Southern Pacific Arcade Station, which station was constructed in 1914. The main concourse is a fireproof structure. The wings on both ends are Class C frame construction with brick wall. The station tracks are located in pairs on each side of the concrete platforms, over which are umbrella sheds. The tracks are reached from the station by means of a subway extending from the waiting room down a ramp under the tracks, and reached by ramps leading to the platforms. On page 240 of Exhibit 1 of the California Railroad Commission there is given the Southern Pacific record of cost of the Arcade Station facilities in the amount of $646,-428.40. The most important additions to these facilities since they were constructed are those which were more in the nature of a rearrangement, due to the entry of the Salt Lake. In connection with that there was expended a total of $12,657, of which $8,879 was chargeable to investment account. However, it is interesting to note that in addition to this $12,000 which was spent in altering the station building itself to provide this temporary use by the Salt Lake, the Salt Lake itself expended something in excess of $120,-000 on its own facilities, track connections, and so forth, incident to this temporary use; thus, the temporary use of the station by the Salt Lake has resulted in a total expenditure by both carriers in excess of 20 per cent of the cost of the station building itself originally (Tr. 3207-3208).

The expenditure of this 20 per cent of the total cost of the station building has not resulted in the taking of the trains off of the streets (Tr. 3209).

Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 30, being entitled: "Occupancy of Station Trackage at Central Station", which is in the following form (Tr. 3215):




CALIFORNIA RAILROAD COMMISSION
ENGINEERING DEPARTMENT
TRANSPORTATION DIVISION
CASE 970
CHART SHOWING
OCCUPANCY OF STATION TRACKAGE
AT CENTRAL STATION
JANUARY, 21, 1926.

CALIFORNIA RAILROAD COMMISSION
EXHIBIT 31

[fol. 410] Case 970

COMMISSION'S EXHIBIT No. 30

California Railroad Commission, Engineering Department, Transportation Division

Occupancy of Station Trackage at Central Station

| Track number | Track occupied: Arriving trains Hrs. | Arriving trains Min. | Depart'g trains Hrs. | Depart'g trains Min. | Total Hrs. | Total Min. | Per cent of total time |
|---|---|---|---|---|---|---|---|
| 3 | 2 | 21 | .. | .. | 2 | 21 | 14.7% |
| 4 | 1 | 11 | 4 | 25 | 5 | 36 | 35.0 |
| 5 | 0 | 22 | 12 | 03 | 12 | 25 | 77.6 |
| 6 | 1 | 26 | 9 | 57 | 11 | 23 | 71.4 |
| 7 | .. | .. | 9 | 49 | 9 | 49 | 61.4 |
| 8 | .. | 57 | 6 | 02 | 6 | 59 | 43.6 |
| 9 | .. | 58 | 4 | 41 | 5 | 39 | 35.3 |
| 10 | 2 | 20 | 10 | 11 | 12 | 31 | 70.2 |
| All | 9 | 35 | 57 | 08 | 66 | 43 | 52.1% |

Average length of Track occupancy per train:
Arriving Trains—22.1 minutes.
Departing " —2 hrs, 20.0 minutes.

NOTE.—Above table compiled from Observations made during period 6:00 A. M. to 10:00 P. M. January 21st, 1926. Time shown includes only time track actually occupied by equipment of arriving or departing passenger trains. It does not include time tracks were used by switching movements in connection with either passenger or freight business.

N.A.W.
Feb., 1926.
(8-A.)

Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit 31, being a chart, entitled: "Occupancy of Station Trackage at Central Station", which exhibit is in the following form (Tr. 3215):

(Here follows Commission Exhibit No. 31, side folio 411)

[fol. 412] On Exhibit 31 there is arranged vertically on the chart, running horizontally across the page, sets of parallel lines which represent the physical trackage, station trackage, at the Arcade Station. There is arranged vertical lines across the page at intervals representing the hours of the day from 6 a. m. to midnight. If a train leaves horizontal lines which represent an individual track, there is plotted by appropriate legends that portion of the hours of the day in which that particular track was occupied, and above the legend in each case is shown the number of the train which so occupied it. The legend is changed between arriving and departing trains. Exhibit 31 shows all the tracks of the station except Tracks 1 and 2. The tracks are numbered at the Arcade Station beginning No. 1 immediately east of the building. Thus the first through track is numbered one; the second numbered two, and so on. Tracks No. 1 and 2 in the sense of being station tracks for the arriving and departing of trains, just do not exist. They are used for head end cars.

There are not sufficient express and mail trackage facilities at the station, so although these numbers nominally run to 10, it is not a fact in so far as the arrival and departure of trains is concerned (Tr. 3215-3216).

It is necessary that the carriers use tracks 1 and 2 for head end business unless other tracks are provided and I don't see where they would be able to provide other tracks for that head end business in adequate amounts (Tr. 3217).

It is apparent from Exhibit 31 that there is a relatively small portion of the day when there is what you call a surplus of capacity in these station tracks at present. During the peak hours from 8 to 10 in the morning the situation is already approaching congestion. There is no doubt in my mind that some additional capacity is possible by increasing the efficiency of the make up and break-up of trains. It is further probable that some of the congestion that [fol. 413] exists at this station is due to inadequate facilities at the coach yard. Based upon these studies I am of the opinion that for peak periods there is now no substantial margin of station track capacity at the Arcade Station, and that even with the additional two tracks that is proposed there will not be provided an adequate capacity to take care of the joint operations of the Southern Pacific

and the Salt Lake for a period of more than fifteen years. In making this estimate of fifteen years I am assuming that every possible operating efficiency will be taken advantage of. In my opinion there is no room at present for the Santa Fe in the Arcade Station, under present trackage and with the two additional tracks it would be inadequate right now for peak periods. There is no additional area in this particular site upon which I can see that additional tracks can be provided in any convenient way (Tr. 3219, 3221).

Referring now to the subject of station building adequacy of the Arcade Station. Theoretically, it is calculated that there should be about 9 square feet of waiting room space for each passenger handled during the rush hour period on normal days. That is a recommendation contained in the American Railroad Engineering Bulletin No. 24, issued in 1923. This theoretical requirement compares with the actual figure of 9.2 square feet per passenger handled at the present time at the Arcade Station. Frequent observation on my part indicates that there is a very definite tendency toward overcrowding the waiting room at this station between the hours of 7 and 8 p. m., just prior to the departure of such important trains as the Padre, Lark and Sunset Limited, and I am thoroughly convinced that, entirely aside from a theoretical consideration of station waiting room capacities, the present waiting room at the Arcade Station will prove to be entirely inadequate for the combined operations of the Southern Pacific and the Salt Lake for peak periods of travel within ten years. (Tr. 3221-3222, March 3, 1926) I do not see how the waiting room capacity at the Arcade Station could be in- [fol. 414] creased except at a very large expense and at the sacrifice of necessary space for other incidental station facilities, such as baggage room and mail handling facilities, etc. (Tr. 3222, March 3, 1926).

Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 32, being entitled, "Proportions of Use of Various Methods of Transportation to and from Steam Railroad Stations", which is in the following form (Tr. 3224):

Case 970

COMMISSION'S EXHIBIT No. 32

California Railroad Commission, Engineering Department, Transportation Division

Proportions of Use of Various Methods of Transportation to and from Steam Railroad Stations

| Method of Transportation | Central station | | Santa Fe station | | Total | Per cent of Total |
|---|---|---|---|---|---|---|
| | To station | From station | To station | From station | | |
| Pacific Electric Interurban Cars. | 120 | .... | .... | .... | 120 | 1.6% |
| Pacific Electric Street Cars..... | 641 | .... | .... | .... | 641 | 8.4 |
| Los Angeles Railway Street Cars | 932 | 760 | 749 | 996 | 3,437 | 45.1 |
| Southern Pacific-Santa Fe Station Transfer Bus..... | 80 | 36 | 36 | 80 | 116 | 1.5 |
| Taxicabs ..... | 497 | 508 | 212 | 193 | 1,410 | 18.5 |
| Private Automobiles ..... | 612 | 413 | 412 | 380 | 1,817 | 23.8 |
| Hotel Busses ..... | 37 | 29 | 20 | .... | 86 | 1.1 |
| Total ..... | 2,539 | 2,126 | 1,429 | 1,649 | 7,627 | 100% |
| Total Passengers Arriving Los Angeles ..... | .... | 2,051 | .... | 1,135 | 3,186 | 55.4 |
| Total Passengers Leaving Los Angeles ..... | 1,724 | .... | 837 | .... | 2,561 | 44.6 |
| Total Passengers Handled On Steam Trains ..... | .... | .... | .... | .... | 5,747 | 100% |

A. G. M.
February, 1926.
(9.)

[fol. 415] Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 38, being entitled: "Comparison of Population in Zones Closer by Travel Time to the Respective Station Sites", which exhibit is in the following form (Tr. 3245):

COMMISSION'S EXHIBIT No. 38

California Railroad Commission, Engineering Department, Transportation Division

Comparison of Population in Zones Closer by Travel Time to the Respective Station Sites

| Description | Daum plan | | Railroad plan | | Plaza plan | |
|---|---|---|---|---|---|---|
| | Population served | Per cent | Population served | Per cent | Population served | Per cent |
| Comparison each plan with each other plan: | | | | | | |
| Street Car Traffic | ..... | .. | 204,000 | 18 | 921,000 | 82 |
| Street Car Traffic | 211,000 | 19 | ..... | .. | 914,000 | 81 |
| Street Car Traffic | 140,000 | 12 | 985,000 | 88 | ..... | .. |
| Vehicular Traffic | ..... | .. | 505,000 | 45 | 620,000 | 55 |
| Vehicular Traffic | 436,000 | 39 | ..... | .. | 689,000 | 61 |
| Vehicular Traffic | 366,000 | 33 | 759,000 | 67 | ..... | .. |

P. E. D.
February, 1926.
(10.)

[fol. 416] The union passenger terminal should be located conveniently in contact with all the systems of local transportation. By that I mean adequate highway access, adequate street car access, and adequate rapid transit access. The City of Los Angeles has reached a population in excess of one million. That is a population at which the cities in the history of this country have found it necessary to really, in a serious way, undertake the actual construction of a real rapid transit system (Tr. 3328).

It seems to me that the terminal facilities which must be provided at an early date should be so located that they will be in convenient contact, not only with the local street cars and the major highways, but also the ultimate primary major axes of the rapid transit system. The Plaza area is the only section in Los Angeles which is capable of meeting the requirements that I have indicated for any reasonable expenditure of money, or with any reasonable regard for the operating facilities and convenience of the trunk line railroads themselves (Tr. 3333).

It is my conception of this entire problem that the issue here presented is not fundamentally a question of whether there should be a union station or not in Los Angeles, but it is a question of how shall adequate steam railroad passenger facilities be provided. All concerned apparently admit that the present facilities for steam railroad carriers are satisfactory, and that corrective measures must be applied. In applying these corrective measures the real issue to be met is that of determining a plan of providing adequate passenger terminal facilities that will best meet these tests, first, adequacy for a large number of years; second, accessibility and convenience to the public; third, convenience and economy of operation of the steam railroads themselves; and fourth, economy of construction. In considering all of these tests as a whole and in putting any one as the controlling test, I personally am convinced that the construction of a union station in that portion of [fol. 417] the City of Los Angeles designated as the Plaza area is the best of any of the plans that have so far been presented (Tr. 3333-3334, March 4, 1926).

E. P. McAULIFFE was recalled and cross-examined.

Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 49, being a map of Hill Station lands appraised by Witness McAuliffe and adjacent lands, which exhibit is certified separately and transmitted as an original exhibit (Tr. 3339).

Exhibit 49 was prepared by me and shows generally the property involved in my appraisal of the Plaza property (Tr. 3337). Zone 4 on Exhibit 49 is a large parcel of land consisting of 25.66 acres between Alameda Street, Aliso Street, Lyon Street and Ramirez Street, with the exception of the Southern Pacific team yards. The appraised value of this land is $1,395,891 (Tr. 3344). The so-called Hanchett properties consist of those previously designated as Zone 4 of about 25½ acres, shown on Exhibit 49 tinted in red and outlined in green, and the balance of the property on Exhibit 49 indicated in green tinting extending to the Los Angeles River. The total area of those Hanchett properties is 38.8 acres approximately. Those properties were acquired from 1912 to 1918 by the Industrial Terminal Railway Company and the Industrial Land and Development Company at a cost of approximately $2,200,000. That cost, in my opinion, was high, and in many cases included incidental costs, naturally the costs of the improvements on the property, payments to cancel existing leases on the properties, and very high prices paid by the Industrial Development and Land Company, who were compelled to pay the asking prices as they did not have the power to condemn (Tr. 3350-51).

It is my understanding that these properties just described were acquired in 1924 by the El Paso and Southwestern Railway for $6,250,000. The property, I understand, has been transferred to the Southern Pacific Company in the purchase by that Company of the El Paso and Southwestern System. I have been told by the Southern [fol. 418] Pacific, and it also appears in the annual reports of that company that it acquired the properties at the same price as paid by the El Paso and Southwestern, or $6,250,000. That price does not represent a fair test or standard to be applied in determining the market value

of the said lands for the reason that I do not consider that the sale was made at the market value. All properties sold in the last three or four years in that district indicate a much lower value. The cost of the properties between 1912 and 1918, approximately $2,200,000, or practically one-third of the purported sale price, was a high cost as of that date. Property in that vicinity has not increased materially in value since the property was purchased. It is my understanding that the property had a special strategic value to the El Paso and Southwestern Railway Company, and that they were compelled to pay, and did pay, very much more than the property was worth. I believe the El Paso acquired the property so that they could get a higher price for their whole system from the Southern Pacific (Tr. 3352-3353).

The 38.8 acres extending from Alameda Street to the River cost $2,221,995. The block designated as Zone 4 between Alameda Street, Aliso Street, Lyon Street, Ramirez Street and Macy Street, with the exception of the Southern Pacific team yards, cost over the period from 1912 to 1917, including all incidental costs, $1,671,386 (Tr. 3357).

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RICHARD SACHSE, recalled as witness on behalf of the City of Los Angeles, testified as follows:

Under instructions given by the Commission in 1917 I, as its chief engineer, made an investigation and study of the grade crossing problems in Los Angeles together with the freight facilities and the question of passenger facilities.

The conclusion was reached that the grade crossing elimination was the most important, and in a way the controlling problem of the whole situation, and therefore this was given [fol. 419] first place. The grade crossings were divided into two groups, river crossings, and the Alameda Street situation, and it was considered that there should be elimination of all important grade crossings on the river banks by means of depression of the tracks and elevation of the streets and the construction of viaducts across the river and across the railroad tracks. The plans and designs were in general adopted by the city and are now being followed (Tr. 3385-3387).

The conclusion as to the Alameda Street situation was that it was intolerable and to the greatest possible extent steam traffic must be eliminated because it did not seem practicable to us to eliminate the tracks entirely. This problem was so very clearly tied up with passenger station situation that as far as Alameda Street is concerned, the two are inseparable. They are inseparable for the reason that the Southern Pacific passenger station is located on Alameda Street, and all passenger trains that are using that station and have used it, are using Alameda Street north of the station for the trains coming in northerly and going out northerly and south of the station coming in and out southerly. It was further involved because the Union Pacific, under the railroad plan, intended to make use of the Arcade Station located on Alameda Street. It was further involved because the location of any proposed union station recognized that it either should be so located that the passenger trains would not use Alameda Street at all, or, in so far as the Arcade Station was considered as a part of the union station, that any of the trains using this union station would also not use Alameda Street (Tr. 3388-3389). The recommendation that Commission's engineering department made was that all passenger railroad traffic and through freight traffic should be eliminated from Alameda Street so that there would be left only certain switching service which should be conducted at night. No feasible plan for meeting the Alameda Street situation has ever been presented which did not involve the construction of a union passenger station (Tr. 3389).

[fol. 420] It seems to me, however, that the question of whether there should be a union station anywhere in any important city will depend on these integral factors (Tr. 3397).

A. The factor of convenience and necessity to the traveling public and whether they are better served as a whole by a union station than by a number of separate stations.

B. The factors of cost to the public as well as to the railroads; both capital cost and operating costs. That is, whether the total burden that has to be paid by the ratepayer will be greater or less by the establishment of a union station.

C. The convenience from an operating standpoint of the railroads and the auxiliary operations connected with passenger service.

D. The best interests of the community as a whole, having in mind desirability of reducing, to the necessary minimum of expense, necessary city areas required for steam railroad operation; also the desirability of enabling possible additional carriers to reach the city in an efficient, convenient and inexpensive way, if this should be required. Also, the factor that it is very much in the interest of a growing and important city to have a railroad entrance in keeping with the size and importance of the city.

E. The topographical condition of the city and the existing locations and facilities of the railroad must make it possible to establish a union station that will at a reasonable cost meet the requirements of such facilities (Tr. 3398-3399).

In Los Angeles the situation is ideal for the creation of a union station. The specific facts that apply to Los Angeles I have sumarized, although they are stated in greater detail in Railroad Commission Exhibit No. 1. My summary is this: First, all of the three railroads are under the necessity, either immediately or in the near future, of making extensive improvements in passenger facilities. The Santa Fe is on record as admitting the immediate necessity of building new and adequate passenger station facilities. It is [fol. 421] certain that these will cost in excess of $1,000,000. The utterly inadequate and inefficient and badly located passenger station of the Union Pacific was recently damaged by fire and has not been repaired or rebuilt, and this important railroad now uses, under a temporary permit, the Southern Pacific Arcade passenger station. An inspection of the latter station any day of the year in peak traffic hours will establish the fact that it either has actually reached its capacity or that the capacity will be reached in a very short time, and especially, as far as the convenience to the public is concerned; and if that is to be made, that, of course, means expenditure by both lines (Tr. 3401-3402).

This group of carriers, the Santa Fe on the one side and the S. P.-U. P. on the other, will be much better served at less cost in a properly located union station than by con-

tinuing their separate stations, even after the necessary expense for improvement (Tr. 3403).

I have already stated that the highly important matter of grade crossing elimination on Alameda Street can best be made by the establishment of the union station; therefore, you can bring about grade crossing relief and a union station at one and the same time, and at an almost ridiculously small cost compared to the importance of the improvement (Tr. 3403).

In Los Angeles a union station can be so located as to serve conveniently the greater portion of the public; it can be located efficiently with reference to the local rapid transit and street car lines and with reference to principal streets and the business center as it now exists, and consistent to and in harmony with the civic center plan adopted and now in the course of construction (Tr. 3403).

Some of the important factors have been taken up that must determine what site is to be adopted, if the agreement is that the Union Station is better than two or more separate stations. The adequacy of the site is the most important factor, referring to the future even more than to the present (Tr. 3410).

[fol. 422] Comparison will be made only with the Plaza site and the railroad plan, that is, the Union Pacific-Southern Pacific Arcade site alone, or in combination with the Santa Fe (Tr. 3410).

I testified before the Interstate Commerce Commission and also before this Commission and my opinion has not been changed that the Arcade site is inadequate, certainly for a union station, and also for a joint station as is proposed by the two carriers, being too narrow for the necessary number of station tracks and insufficient room for adequate mail, express and baggage facilities as they will have to be provided for in the near future. Considering the possibilities for expansion present on that site, it is found that it will be a very expensive and very inconvenient proposition to expand the site and not in the interests of the city. It can be done by relocating Alameda Street or by building over or under the street or by doing the same thing on the Central Avenue side. Expansion north and south can be made by closing Fourth Street, or separating grades or elevating station tracks, all of which are

undesirable and attended by expense that is not reflected in the estimates at present before the Commission (Tr. 3411).

As to the Plaza site, there is no question at all as to the adequacy for all reasonable time to come (Tr. 3411).

Turning to the next very important factor of accessibility, Mr. Mott has so clearly and fully brought out the present accessibility and agreement is had with his conclusions. Future accessibility is perhaps even more important. In the quotations made from Mr. Arnold's report, the central location of the Plaza is clearly brought out and it is a fact that some of the most important thoroughfares and some of the most important, either immediately touch, or adjoin the Plaza, and that the important north and south axis which is the controlling axis goes right through the Plaza. A union station is desired located conveniently accessible to the main thoroughfare and at the same time should not be so located that it will interfere with those [fol. 423] thoroughfares to such an extent as to affect their usefulness. The Plaza is now in an adopted portion of the major highway plan for the city (Tr. 3411-3412).

It is to be noted that the proportion of travelers reaching Los Angeles and tran-ferring immediately to another railroad is small. If the construction of the union station had to be justified by the number of transfer passengers, then there would be no justification for a union station. But this, in my opinion, is a very minor factor here and in other places. Most of the travelers who come into the city stop a shorter or a longer period, and while they do not transfer immediately they are through passengers. A considerable number of passengers who travel on separate tickets to and from Los Angeles are also transfer passengers coming back, although they are not counted as such in any traffic analysis. Neither are the steam railroad passengers transferring to the Pacific Electric counted as transfer passengers, which is a small percentage. Together the transfer passengers amount perhaps to something like ten per cent, and a union station would be a real convenience to them. This convenience, of course does not exist under a two station plan. When it comes to the convenience as regards the actual station facilities, the Plaza site permits of a superior design of a station layout than does the Ar-

cade site. A combination of the Arcade and Santa Fe sites under the railroads' plan is less favorable and less desirable than either the Plaza or an improved complete Arcade depot plan (Tr. 3426-3427).

In explanation of the statement that the Arcade site was superior, it was meant that it was superior for the combined facilities of all railroads that the Union Pacific and the Southern Pacific alone, but a union station at the Plaza is more convenient in all respects than a union station at the Arcade (Tr. 3428).

In considering the costs, the most important is the investment cost, which must be supported by the rates. The [fol. 424] last comparison must take into consideration not only the actual new money required, but salvage values which come about from the release of lands now used for passenger service and no longer necessary, and it must take into account the facilities of all the carriers whether they are in separate stations or in a union station, and all the property devoted to the service at the present time, as well as the property that will be devoted in a reasonable future, having in mind always that these new facilities are to be provided for the future even more than for the present (Tr. 3429).

The total cost of passenger facilities under the railroad plan, having in mind the requirements for the future, are larger than the same costs for a union station at the Plaza. I have in mind the Santa Fe expenditures, as well as the Southern Pacific-Union Pacific expenditures. I am not taking into consideration at this time any expenditures that the Pacific Electric may make (Tr. 3430).

When the expenditures are made, there will be a union station that will care for the needs of Los Angeles, as far as the site is concerned, for 50 years or more, while at the Arcade site there is no allowance for expansion (Tr. 3430).

The Southern Pacific now owns most of the land required for the Plaza plan.

The Interstate Commerce Commission in its Decision of July 6, 1925, has taken the sum of $3,855,505 as its estimate of the cost of the station lands under the Plaza plan. If the market value of the lands that have been acquired by the Southern Pacific is subtracted from that sum, the land value will be a relatively minor item. The Interstate Commerce

Commission has estimated that the total investment under the Plaza plan would amount to $9,256,118, and that the similar figure for the carriers' plan will amount to $10,245,219. These figures are shown on page 457 of the Interstate Commerce Commission decision. I am familiar with the detailed items that make up both of these figures, and I [fol. 425] am satisfied that the estimate that the Interstate Commerce Commission has used for the Plaza plan is a liberal estimate, and includes some items that are not properly charge- to passenger facilities. The Interstate Commerce Commission estimate for the Plaza plan is liberal, and the figure represents a very moderate sum for union station facilities for a city the size of Los Angeles (Tr. 3431).

No consideration has been given by Commission's engineer to the use of air rights, but the air rights above the Plaza are a most valuable consideration. In Chicago, the engineers have adopted the principle that the air rights will ultimately pay the cost of the entire investment. The Plaza location is much better for air rights development than any other site (Tr. 3432-3433).

Considering future electrification, the cost of electrification of the Plaza site will be less expensive and will be more likely brought above than any other location (Tr. 3433).

Cross-examination:

The most important of all reasons why a union station should be constructed at the Plaza is to eliminate the steam main line trains from Alameda Street. The other reasons which make it necessary to construct a union station at the Plaza are that the carriers are under the necessity of spending large sums of money for the improvement of passenger facilities aside from the question of Alameda Street, the physical conditions in Los Angeles, the topography, and also the conditions under which the steam railroads operate at present, are practically ideal for the establishment of the union station and a union station would more conveniently and adequately serve the passengers using the steam railroads as well as the general public that have occasion to use these steam railroad passenger depots, and the capital costs and operating costs would be less at a union station

that under separate stations and a union station is a general consonance and fits in better with the city development of the civic plan. The property necessary to the erection of a union station is largely but not entirely railroad prop- [fol. 426] erty. There is a very decided tendency of consolidation of terminals in large cities because the consolidation is recognized as a tremendous factor in railroad operation. These are some but not all of the reasons why I think a union station is desirable for Los Angeles (Tr. 3484-3485).

The present Southern Pacific passenger station and incidental facilities are adequate for the Southern Pacific alone for the present time and for perhaps 20 years in the future. Irrespective of any grade crossing situation, considering the adequacy of the Southern Pacific station for its own use and the necessity of the Salt Lake and Santa Fe of providing themselves with station buildings, a union station at the Plaza would be recommended (Tr. 3485-3486, Mar. 5, '26).

The total investment or value of the facilities devoted to passenger stations in the City of Los Angeles will be less and will become increasingly less under a union station plan than under seperate plans (Tr. 3486).

When I speak of comparative costs I refer to the Railroad Commission plan, the Hill plan, the last plan (Tr. 3487).

No provision has been made in the Hill plan to relieve the Pacific Electric grade crossing situation. The steam passenger problem is a separate matter and the Pacific Electric problem should be settled as well as it may be (Tr. 3490-3491).

The union station should be so located to be easily accessible and conveniently located to the ultimate solution of rapid transit (Tr. 3493).

It is difficult to set a definite limit on cost for union station, but when it was found that the expenditure would be very little if any, more than the immediate expenditure necessary for separate stations, then it became a very powerful factor. When further comparison was made of the total investment, and it was found that the union station could be built for actually less money that the separate facilities, at the same time providing a plan which would take

[fol. 427] care of the ultimate needs, then the question of relative expenditures *were* settled (Tr. 3495-3496).

An expenditure of about $10,000,000 or even $12,000,000 for the aggregate of station facilities in the City of Los Angeles, would be a very moderate investment and much less than for similar facilities in any city of the same size (Tr. 3497).

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A. G. Mott recalled.

Cross-examination:

With the completion of the program for the construction of viaducts across the Los Angeles River, to which I testified, I think you will have caught up with the present condition as to the grade crossing situation so far as the tracks of the Salt Lake Company are concerned on the east bank of the River. I think something will have to be done in the future in the way of viaducts at Washington Street and maybe at Sixth Street. I think the program which I have heretofore outlined, and which is now in progress of being carried out, will take care of the situation if the Salt Lake Company continues to run its trains wholly on the east bank of the river (Tr. 3635-3637). It is my conclusion and my opinion that so far as the carriers' plan is concerned, as compared with the proposed Plaza plan, that the costs of operation are so nearly equal that this should not be taken as an important factor in reaching a determination of the problem (Tr. 3644, May 18, 1926).

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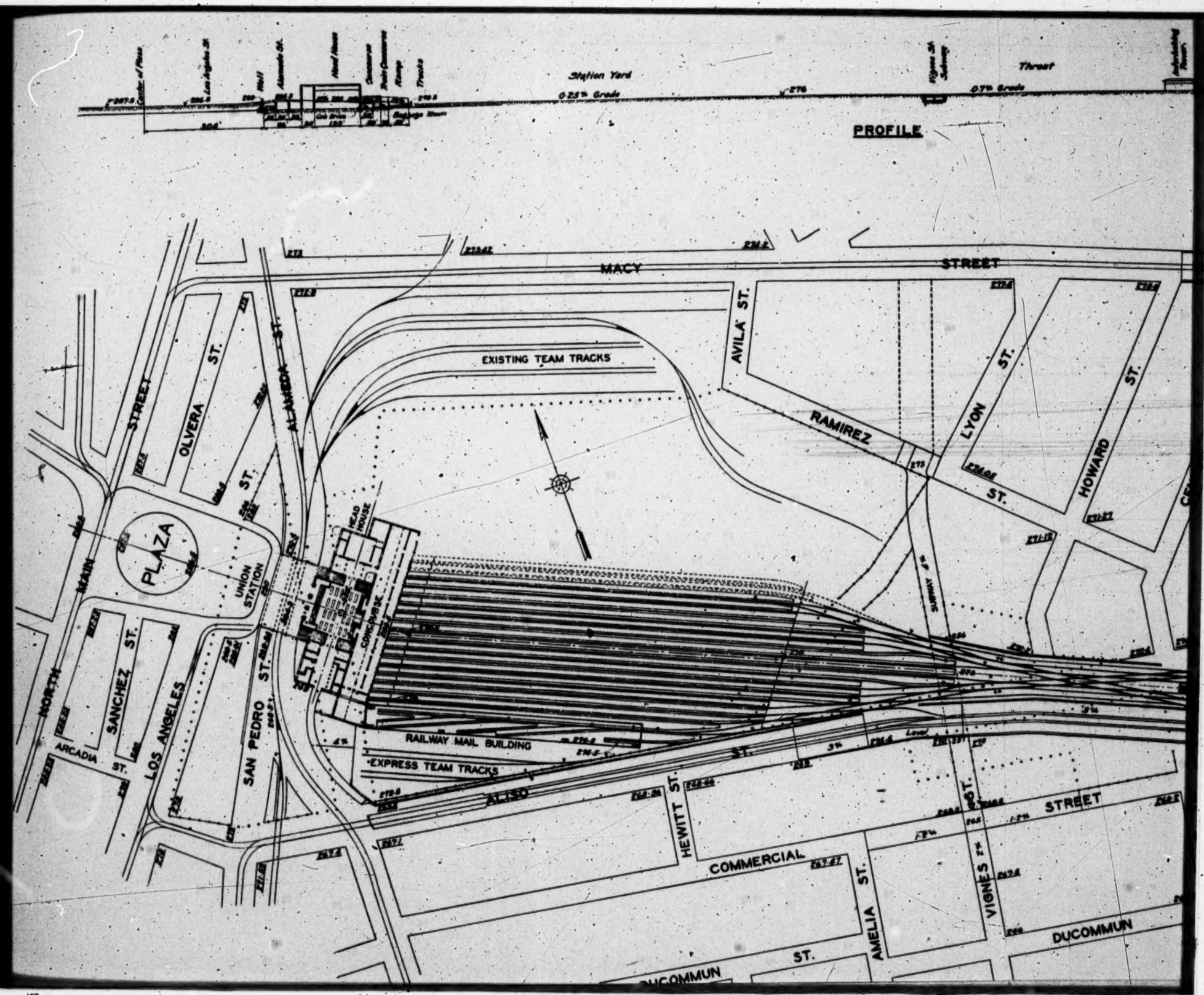
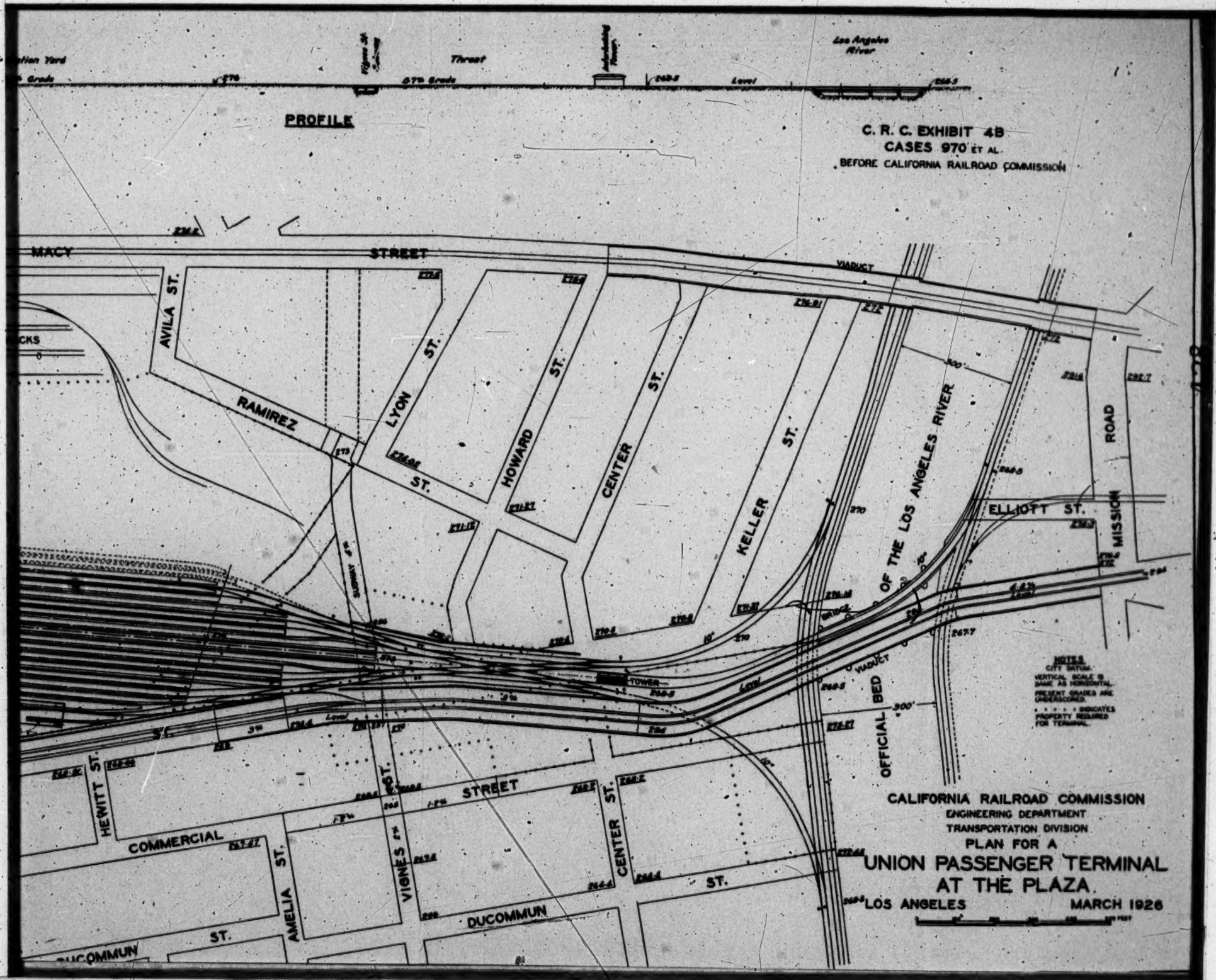
George S. Hill, recalled as a witness on behalf of the Railroad Commission, testified as follows:

The plan shown on Railroad Commission Exhibit No. 4 was developed by me for the purpose of a case that was pending between the City of Los Angeles and certain railroads in 1924 before the Interstate Commerce Commission (I. C. C. Case 14778) (Tr. 3669).

I have made a final plan for the Plaza station layout which differs from previous exhibits in that the curve has been flattened to 10 degrees. Thereupon there was offered and


PROFILE
Station Yard
0.25% Grade
0.7% Grade
MACY STREET
EXISTING TEAM TRACKS
AVILA ST.
RAMIREZ ST.
LYON ST.
HOWARD ST.
OLVERA ST.
ALAMEDA ST.
MAIN STREET
PLAZA
UNION STATION
HEAD HOUSE
CONCOURSE
NORTH MAIN
SANCHEZ ST.
ARCADIA ST.
LOS ANGELES
SAN PEDRO ST.
RAILWAY MAIL BUILDING
EXPRESS TEAM TRACKS
ALISO ST.
HEWITT ST.
COMMERCIAL STREET
AMELIA ST.
VIGNES ST.
DUCOMMUN ST.
SUBWAY


PROFILE
C. R. C. EXHIBIT 4B
CASES 970 ET AL.
BEFORE CALIFORNIA RAILROAD COMMISSION
MACY STREET
AVILA ST.
RAMIREZ ST.
LYON ST.
HOWARD ST.
CENTER ST.
KELLER ST.
VIADUCT
OF THE LOS ANGELES RIVER
ELLIOTT ST.
MISSION ROAD
SUBWAY
TOWER
OFFICIAL BED
HEWITT ST.
COMMERCIAL STREET
AMELIA ST.
VIGNES ST.
CENTER ST.
DUCOMMUN ST.
NOTES
CITY DATUM
VERTICAL SCALE IS SAME AS HORIZONTAL
PRESENT GRADES ARE UNDERSCORED
INDICATES PROPERTY REQUIRED FOR TERMINAL
CALIFORNIA RAILROAD COMMISSION
ENGINEERING DEPARTMENT
TRANSPORTATION DIVISION
PLAN FOR A
UNION PASSENGER TERMINAL
AT THE PLAZA
LOS ANGELES
MARCH 1926

admitted in evidence California Railroad Commission Exhibit No. 4-B being entitled "A plat marked Plan for Union Passenger Terminal at Los Angeles March 1926", which exhibit is in the following form (Tr. 3698).

(Here follows Commission Exhibit No. 4-B, side folio 428)

[fol. 429] Exhibit 4-B is not materially different from the previous plan, Exhibit 4, except that it is developed a little more in some of its details. The head house is the same size, although I have shown the concourse extended somewhat at the ends, because I found it was not necessary to have the station the full 60 feet in height, and therefore, additional area could be provided for the same curvature. The station is made to face the Plaza more directly, that is parallel with Main Street. Otherwise, it is very similar (Tr. 3700).

Exhibit 4-B is the last edition of Exhibit 4 (Tr. 3701).

I presented Exhibit 4-B to illustrate some of the details of the plan shown on Exhibit 4. I made an estimate to determine whether the plan shown on Exhibit 4-B would cost more or less than the plan shown on Exhibit 4. They are the same plan, and the cost is the same, except, as I say, with possibly the addition of that little parcel of land on Howard and Aliso Streets, and the alternative of the Vignes Street Subway. There is no extra construction involved (Tr. 3758).

The plan for the station building and track lay out has not been changed and the cost estimates have not been changed (Tr. 3759).

Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit No. 52, entitled: "Estimated Areas of Union Passenger Station Facilities, Plaza Plan of March, 1926", which is in the following form (Tr. 3753):

[fol. 430] Case 970

COMMISSION'S EXHIBIT No. 52, MAY 19, 1926

California Railroad Commission, Engineering Department, Transportation Division

Estimated Areas of Union Passenger Station Facilities, Plaza Plan of March, 1926

| | Areas, in sq. ft. |
|---|---|
| Head house (Plaza level): | |
| Waiting Room | 15,400 |
| Ticket Lobbys | 4,400 |
| Restaurant Lobby | 1,900 |
| Ticket Office | 2,370 |
| Telephone and Telegraph | 1,000 |
| Women Rest Room | 1,650 |
| Women's Toilet | 1,380 |
| Restaurant | 5,840 |
| Lunch Room | 2,100 |
| Kitchen | 2,400 |
| News Stand | 400 |
| Parcel Checkroom | 1,500 |
| Invalid Room | 400 |
| Travelers Aid | 400 |
| Walls ramps Halls, etc. | 13,260 |
| Total | 54,400 |
| Head house (3rd floor wings): | |
| Division Offices | 12,250 |
| [fol. 431] Head house (Alameda St. Level): | |
| Men's Smoking Room | 1,200 |
| Barber Shop | 640 |
| Men's Toilets | 1,330 |
| Division Offices | 14,000 |
| Power & Heating Plant | 5,500 |
| Agent's Office | 650 |
| Walls & Stairways, etc. | 6,500 |
| Unassigned Spare Space | 24,580 |
| | 54,400 |

| | Areas, in sq. ft. |
|---|---|
| Passenger concourse (includes 3,900 sq. ft. in baggage checking room) | 26,375 |
| Baggage room under passenger and train concourse: | |
| Baggage and Cab Drive | 15,000 |
| Baggage Room | 20,375 |
| | 35,375 |

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[fol. 432] GORDON WHITNALL was called as a witness on behalf of the City of Los Angeles and, having been duly sworn, testified as follows:

I am City Planning Director-Manager of the Board of City Planning Commissioners of the City of Los Angeles. This is an official board established by the City Charter of the City of Los Angeles. I have been connected with the City Planning Commission since 1920, and have worked upon city planning matters since 1913. I have studied and read various leading works on the subject of city planning. The City Planning Commission in 1921 undertook the preparation of a highway plan, the purpose of which was to co-ordinate the existing street system into a major highway system plan. The program contemplated the employment of existing streets where, because of direction or of width, they lent themselves well to a complete framework of major streets; and the recommendation of certain connections, sometimes widenings and in other cases straightenings to complete that otherwise incomplete system (Tr. 3905-3906). There resulted from these studies incident to that work a major street plan which was submitted to the City Council with recommendations that it be adopted as a guide in matters of passing upon all questions pertaining to streets, such as privately initiated improvement projects, control over new subdivisions where they might be found to be located within the City, and similar matters coming under the jurisdiction of either the City Planning Commission, City Council or City Engineer. That plan was adopted as a pattern that would be followed.

Thereupon there was offered and admitted in evidence City of Los Angeles' Exhibit No. 13, being a map entitled: "Major Traffic Street Plan, Los Angeles, California", which is certified separately and transmitted as an original exhibit (Tr. 3909).

City of Los Angeles Exhibit No. 13 was a part of the report of the City Planning Commission to which I referred (Tr. 3909).

Thereupon there was offered and admitted in evidence City of Los Angeles Exhibit No. 14, being a map entitled: [fol. 433] "Existing Major Thoroughfares Serving Administrative Center Site", which is certified separately and transmitted as an original exhibit (Tr. 3912).

The Plaza is located on the map, Exhibit 14, at the spot represented by a little circle in the upper right hand corner of the quadrangle marked as the administrative or civic center site (Tr. 3912).

The area represented as lying between New and straightened Spring Street and the present Main Street, and bounded on the north by present Temple Street and on the South by First Street has already been acquired, and is the site upon which there is now being constructed a foundation for the new city hall (Tr. 3915).

Thereupon there was offered and admitted in evidence City of Los Angeles Exhibit No. 15, being a map entitled: "Administrative Center District and Adjoining Areas showing Certain Land Ownerships", which is certified separately and transmitted as an original exhibit (Tr. 3916).

The ownership of certain property by the railroads, City of Los Angeles, County of Los Angeles and Federal Government are shown as indicated on the legend of City of Los Angeles Exhibit 15 (Tr. 3916-17).

In the preparation of City of Los Angeles Exhibit 15, the information so far as the city property is concerned was secured from the files of the City Clerk and the State Controller. The county information, I got from the county records. The railroad information was obtained from the county records and from other records of the Board of Public Utilities and Transportation (Tr. 3919).

Thereupon there was offered and admitted in evidence City of Los Angeles Exhibit No. 16, being a map entitled: "Metropolitan Mosaic Greater Los Angeles", which is certified separately and transmitted as an original exhibit (Tr. 3920).

The purpose of preparing City of Los Angeles Exhibit 16 was to show that from a territorial standpoint the Plaza is almost the exact center of the metropolitan area. The map was originally prepared in connection with our discussions on the location of the administrative or civic [fol. 434] center for the reason that many people held that such a center should be located in a geographical center of the territory to be served, and also if possible in the center of population. By the studies we made we found that it was a coincidence that the Plaza, being approximately the geographical center of the Metropolitan district, happened also, according to registration figures, to be almost the exact center of population of that same district (Tr. 3921).

The voters of the City of Los Angeles have already authorized $7,500,000 of bonds for the construction of the city hall and its site in the civic center. In connection with the voting of bonds there was submitted a general proposition as to where the administrative civic center should be located. The result of the vote by a very substantial margin was to locate it where we are now actually constructing it, namely, south of Sunset, north of First and from about Los Angeles Street to Hill Street (Tr. 3929).

Exhibit 15 shows the location of public buildings already constructed in the civic center area. On the quadrangle framed by Spring Street on the west, Main on the east, Temple on the North, and First on the south is the site on which there is now being erected the new city hall. The exact location of the building is a site occupying approximately the northerly three-fourths of that quadrangle. Immediately across to the west from the city hall site, and located just south of Temple Street, is the court house building. Adjoining the court house on that portion of the property indicated as belonging to the county, shown as a diagonal parcel of land is now located the hall of records. Right across Temple Street at the northeast corner of Broadway and Temple is located the new hall of justice,

reported to have cost between six and seven million dollars (Tr. 3930-3931).

I consider a union depot located at the Plaza, as indicated by Railroad Commission Exhibit 4-B, as more accessible for vehicular traffic than a depot located as proposed [fol. 435] by the carriers at the site of the present Southern Pacific depot, Central and Fifth Street (Tr. 3999-4000).

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HARRY HAWGOOD was called as a witness on behalf of the City of Los Angeles and, having been duly sworn, testified as follows:

I am a Civil Engineer and have been so engaged for fifty years. I have been Chief Engineer of the Portland-Willamette Railway and of Los Angeles and Salt Lake, now the Union Pacific. I was also at one time, from 1888 to 1894, resident engineer for the Southern Pacific in charge of bridges and buildings between Los Angeles and El Paso. I have made an extensive study of the grade crossing elimination and union depot problem in Los Angeles. I have studied the so-called Plaza plan and also the carriers' plan, sometimes referred to in this case as the Titcomb plan. I am familiar with the street layout for the location and general conditions surrounding the proposed plans and of the general traffic situation in Los Angeles, both as to vehicular and rail transportation. In my opinion the best solution of the grade crossing problem of the steam railroads in Los Angeles is by the construction of viaducts over the river and a union station. The best location for such a union station is at the Plaza. By the "Plaza" I mean the Plaza area as heretofore outlined by the order of the Interstate Commerce Commission and the State Railroad Commission (Tr. 4214-4215). One of the chief reasons for this opinion is that the Plaza is at the head of the main axis of travel through Los Angeles in a north and south direction and the location lends itself very well to what, in my opinion, must come sooner or later, that is subways, and they would also be generally in a north and south direction. It is also the point where the railroads are the closest together and can be gathered together with the smallest amount of track. All of these three railroads come under

the North Broadway bridge (Tr. 4215-4216). A further consideration favoring the location at the Plaza is convenience to the street car service, which is better at that point [fol. 436] than under the carriers' plan. There are more street cars which pass there reaching greater portions of the City and the bulk of the passengers use street cars. I have examined the plans prepared by Mr. Hill and introduced as Railroad Commission Exhibit 4-B. I have gone over the plan in some detail and believe that it is a practicable, workable and desirable plan. There are no features of the plan to prevent it from being carried forward and put into complete effect. It would result in an efficient operation (Tr. 4218). The passenger ramps in the Arcade Southern Pacific Station are too steep. The grade is 16 per cent and the maximum of a properly constructed layout in 10 per cent. The Plaza site has an advantage in that you can distribute the passengers at two levels. You can distribute them to taxi cabs or autos on the Alameda Street level or you can distribute them on the Plaza level. At the Plaza the street cars could be looped around in front of the station, the same as they do at the union station in Washington (Tr. 4224). The track layout as shown on Exhibit 4-B is adequate and sufficient, and is in agreement with standard practice and usage. There is room at the location shown on Exhibit 4-B to take care of necessary expansion that could reasonably be expected during the life of this union station (Tr. 4226). The Arcade station will not permit of any feasible expansion without doing away with Alameda Street and crossing over to the east of Alameda and acquiring expensive property occupied now by industrial use (Tr. 4227). The plaza site topographically lends itself very well to subways. There is the low level on Alameda Street from which it would take but very little depression to reach proper subway level. Being at the end of the traffic axis of the City, it lends itself very well to the traffic consideration. It can be done at the Arcade depot, but it would require much longer incline approaches to get underground and then there would be trouble in turning at right angles to get into the flow of the traffic north and south at Main or Broadway or Spring Streets (Tr. 4229).

[fol. 437] G. E. DONNATIN was called as a witness on behalf of defendant and, having been duly sworn, testified as follows:

I am Terminal Train Master of the Southern Pacific Company and in the discharge of my duties I supervise the operation of the Los Angeles Terminal of that Company. I have served in the locomotive service, as freight brakeman and conductor, as yard master, as assistant train master, from 1906 to 1923, and from 1923 to the present time I have officiated as Train Master (Tr. 4283). I have this criticism of Commission's Exhibit No. 31. It does not reflect the true situation. That chart is supposed to represent what is being done at the present time in the Central Station. * The coaches and rear end of our trains are set up right now substantially the same as I have set them up in Exhibit No. 36. We set the head end cars up, it is very true, four or five hours in advance of leaving time. That is not necessary but we have no other use for the tracks and we set them up for economy sake more than anything else. After we get our head ends all set up we can use the switch engine for other purposes. Those advance occupations that take place now are caused entirely as a matter of convenience. If we have any need for that space it would not be necessary to set up these trains more than thirty minutes before they left (Tr. 4298). As a matter of fact we have vacant station space and sometimes set up the trains four or five hours before they are due to depart. This is not necessary (Tr. 4299). I have been operating the Southern Pacific Station for some years and in my opinion, with the present facilities of eight tracks, I would say that we could handle 160 trains a day there using the same facilities (Tr. 4302). It is my opinion that the present Southern Pacific facilities could handle two or three times as much business, that is the number of trains, as there is now coming into and out of the Southern Pacific Station (Tr. 4314).

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* Thereupon there was offered and admitted in evidence Carriers' Exhibit No. 36 entitled "Proposed Train Movements in and out of Station, Joint Terminal Los Angeles & Salt Lake Railroad and Southern Pacific (Tr. 4295).

E. O. Brown was called as a witness on behalf of defendants and, having been duly sworn testified as follows:

[fol. 438] I am the terminal train master of the Santa Fe Railroad; have occupied that position for three years and have had 35 years of railroad experience (Tr. 4351).

There is lots of room at the Santa Fe passenger station for extension of tracks but we don't need any more room where we are. I have handled millions of people and hundreds of thousand of cars and I never held a passenger train out of the depot, and I have had as high as fifteen or sixteen sections of the train. I never had to stop a passenger train and never got but one train in on the wrong track (Tr. 4355).

The Santa Fe passenger facilities are absolutely ample. The operation is very economical. The reasons for that are that we have an open station, double end tracks, and when a train arrives at Los Angeles, five minutes after the train stops there is not a passenger left on the platform that came in on that train. Unloading and getting off the platform will average five minutes (Tr. 4356).

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J. R. Hitchcock was called as a witness on behalf of defendants and, having been duly sworn, testified as follows:

I am the Assistant General Manager of the Santa Fe Railway Company and have held that position since January 1, 1920. From 1905 to 1920 I was Superintendent of the Los Angeles Division of the Santa Fe and I am familiar with the operation and layout the Santa Fe has in Los Angeles (Tr. 4435-4436).

The Santa Fe layout at the present time in Los Angeles is adequate. We have ample land and we have adjoining our present passenger tracks freight tracks that can be used in emergency for passenger purposes. A new passenger station could be erected, I estimate, one year from the time construction is started. The completion of such a plan would furnish us a permanent, adequate, economical and convenient passenger layout in the City of Los Angeles (Tr. 4468-4469).

I don't know of any location for a Santa Fe station which would be operated as economically as that which we now have.

[fol. 439] If it becomes necessary to take the coach yard or a part of the present coach yard or freight tracks near the passenger station for other passenger tracks, we have land on which we could place the necessary coach yard.

All the Santa Fe needs to do to have a modern, up-to-date, adequate station is to build a station building and rearrange, to some extent, station tracks. We have adequate roundhouse facilities within a reasonable distance; we have adequate station and other coach yard accessorial facilities adjacent or reasonably close; they are a little bit crowded but can be enlarged, practically, on their present site.

It would be almost a crime, as far as the Santa Fe is concerned, to take it away from the present site (Tr. 4471).

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R. B. BALL was called as a witness on behalf of defendants and, having been duly sworn, testified as follows:

I am Chief Engineer of Santa Fe Coast Lines stationed at Los Angeles. Have occupied this position for about eight years. Have been in the service of the Santa Fe since 1901 (Tr. 4533-4534).

The advantages to be gained by a union station are questionable. There is no vital need for it and no real argument has been submitted as to why it is needed. The Santa Fe can take care of its own business at a nominal expense; and no evidence has been submitted to the contrary (Tr. 4538). The cost of the plan 4-B is under-estimated by the Commission's engineers. It has been under-estimated all the way through. An estimate of what the plan will cost will be submitted by the carriers and will show that the actual cost will be approximately 15 million dollars, including the necessary new trackage (Tr. 4538). While it is estimated that plan 4-B will cost 15 million dollars, it will never be built for that. I would advise the Santa Fe against going into this proposition unless they want to spend anywhere from 25 to 30 million as their proportion of that expense to make a layout that the carriers could operate and that [fol. 440] would be acceptable as a union station (Tr. 4544).

I have no details on which to base my estimate of 25 to 30 million dollars (Tr. 4566).

I have never read the Interstate Commerce Commission decision dated July 6, 1925, in Docket 14778, entitled: "The Los Angeles Passenger Terminal Cases" (Tr. 4598).

Plan 4-B is improperly made, but carriers will not accept it and it will have to be remade. I seriously object to the Commission's witnesses coming in and estimating one thing and then talking about another. Mr. Sachse, Mott and Hill all testify that the Hill plan is a sample plan only, that in speaking of the Plaza the particular area only is thought of and that one man should not attempt to produce a plan. These men are all talking about one thing and estimating another and that when the carriers undertake to work out this problem in the Plaza area, plan 4-B will have to be remade and carriers will be faced with an expenditure of between 25 and 30 million dollars, and in this the Commission is not being led on stable ground. Plan 4-B is not fair in that it does not give to the Commission a correct, workable estimate. These men are passing on to the carriers a cheap substitute that cannot be operated and will not be constructed, and the railroad engineers will have to assume the responsibility of the increased cost (Tr. 4546-4547).

The Santa Fe has plenty of land at its site to take care of its needs and for approximately a million dollars can build a station and rearrange the yards so that the business can be handled as far ahead as can be seen and it hesitates to embark on the unknown when it can fix its passenger facilities for all time for a million dollars (Tr. 4597).

The Santa Fe has no grade crossings, except North Main Street, which can be relieved at any time. It is located along the river bank and it is not sound that the Santa Fe should share in any ten, fifteen or thirty million dollar in- [fol. 441] vestment, when it can take care of its own business for a million dollars.

The Santa Fe does not need a union terminal. There is no demand for one and it would not be sound policy of the management or in justice to the stockholders to spend our share of the investment (Tr. 4598).

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T. H. Williams, witness recalled on behalf of defendants, testified as follows:

At the present time we are operating 52 trains per day in the existing Southern Pacific-Salt Lake station, the joint station known as Central Avenue Station, and we are not having any difficulty in handling the business of the South-

ern Pacific and Salt Lake in and out of the station. It has not reached its capacity and the very fact that we only use eight tracks of the total number of tracks available, I think, is an indication as to the present use of the station as to its adequacy. The necessary use of the station is so light at this time that you have available storage space for long in advance of the departure of trains (Tr. 4612-13).

The transfer of passengers from one station to the other at Los Angeles is less than 2 per cent of the total and in view of this small number it cannot be said that a union station is necessary to avoid the inconvenience of transfer (Tr. 4614).

In 1915 the three roads were handling 126.3 trains per day. This decreased to 87.7 per day in 1920 and decreased further to 82 trains per day in 1925, a decrease of 30 per cent in 5 years, 1915 to 1930, and a decrease of 6 per cent the last 5 years, 1920 to 1925, and this in the face of the rapid increase in the population. This situation is brought about by the Pacific Electric absorbing all the suburban business, by the use of private automobiles and by the bus lines (Tr. 4615).

Summing up, and with a knowledge that from an operating standpoint, the central station is adequate for the present and for some future need, my conclusion is that a union sta- [fol. 442] tion is not necessary (Tr. 4617). I believe the Alameda situation is very bad and one that must be corrected. It is that belief which is inducing the Southern Pacific and Salt Lake to try to secure a separated approach to the Central station (Tr. 4618).

The reduction in the number of passenger trains on the part of the Southern Pacific is principally in the local trains, there being no substantial reduction in through trains. Unless conditions change, the future reduction in the number of trains is anticipated in that all purely local trains running less than 100 miles will be taken off (Tr. 4625-4626).

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F. H. KNICKERBOCKER was called as a witness on behalf of defendants and, having been duly sworn, testified as follows:

I have been the General Manager of the Los Angeles and Salt Lake Railroad since 1924 and have had 26 years' experience in various capacities (Tr. 4633).

During the past five years there has been very heavy decrease in the passenger business of the Salt Lake Railroad, about 58% and there is little encouragement to hope that there will be any substantial increase during the next five five or ten years. Local passenger business has wholly disappeared leaving nothing but the long haul business and as to this it is not unreasonable to expect that the inroads made by motor vehicles will increase. In that event the question of passenger terminal facilities involving heavy expenditure becomes very serious (Tr. 4629).

In 1920 the Salt Lake unit of the Union Pacific handled a total of 1,784,421 passengers while during the year 1925 there was 788,741 passengers, a decrease of 55.8%. During same years the Union Pacific as a whole handled 11,254,003 passengers compared with 4,638,102 passengers or a decrease of 58.8%. This decrease is attributed almost wholly to competition of motor vehicles.

Each year sees a further encroachment of the motor vehicle in overland travel. During the past two years there [fol. 443] has been no substantial decrease as to the number of trains but very few local trains are operated, and the only local trains now operated are ones that operate to Pasadena and Long Beach and carrying through sleepers. From a traffic standpoint there is no real necessity for increasing the number of overland trains. There is no necessity for increasing the number of passenger trains during the next ten years but there is a hope that some improvement in character of trains and little faster time may stimulate the business. The very small proportion of passenger traffic that is interchanged is not of sufficient volume to warrant large expenditure in a union station (Tr. 4630-32).

The Union Pacific has sufficient holdings on the east bank of the river to construct an adequate passenger terminal without acquiring any more property. The logical place would be at Seventh Street and an expenditure between $750,000.00 and $1,000,000.00 would provide adequate facilities, which would take care of the Salt Lake for the next 10 or 15 years. In face of the increase in the population in Southern California, Salt Lake passenger business has shrunk 55.8%, attributed to the use of the motor vehicle. This percentage is in the number of passengers and the revenue. In 1924 the passenger revenue of the Salt Lake unit decreased $1,200,000.00 compared with 1923. In the

past two years there has been a decrease on this part of the Union Pacific in passenger revenue of $1,600,000.00. There has been practically no local business in the last two years. A large investment in passenger facilities would not be wise (Tr. 4636-4641).

Thereupon counsel for the carriers introduced and there was accepted in evidence a certified copy of an agreement and deed between J. W. Wolfskill et al. and Southern Pacific Company, dated October 28, one thousand eight hundred and eighty-nine, which was marked as carriers' Exhibit 87 and which is in the following form:

CARRIERS' EXHIBIT 87

"No. 2302, Book 630, Page 187, of Deeds

[fol. 444] This indenture, made this 28th day of October, A. D. one thousand eight hundred and eighty-nine, by and between J. W. Wolfskill & Mrs. Francisca Wolfskill de Shepherd of the City of Los Angeles, County of Los Angeles, State of California, parties of the first part, and the Southern Pacific Railroad Company, a corporation, duly incorporated and existing under the laws of the State of California, the party of the second part.

Witnesseth: That whereas, an agreement was made and entered into on the 23rd day of June, 1887 by and between the aforesaid parties of the first part and Leland Stanford of the City and County of San Francisco, State of California, for and on behalf of the Southern Pacific Railroad Company and other railroad corporations, which said agreement was in writing and was in words and figures as follows, to-wit:

"'This Memorandum of Agreement made and entered into this 23rd day of June, A. D. 1887, by and between J. W. Wolfskill and Francisca Wolfskill de Shepherd of the County of Los Angeles and State of California, as parties of the first part and Leland Stanford of the City and County of San Francisco, State of California, for and on behalf of the Southern Pacific Railroad Company, and other railroad corporations whose interests may be hereby affected, as party of the second part, witnesseth that for and in consideration of the promises and undertakings hereinafter

contained on the part of said party of the second part, the parties of the first part do hereby consent, promise and agree, that upon the completion and establishment of the railroad passenger depot hereinafter mentioned they will by good and sufficient deed of grant, bargain and sale, convey free of charge to the Southern Pacific Railroad Company, a corporation, duly incorporated and existing under the laws of the State of California, or to such other railroad corporation as the party of the second part may designate all of that certain real property situate, lying and being in the City of Los Angeles, County of Los Angeles and State of [fol. 445] California, and bounded and particularly described as follows, to-wit: Commencing at a point in the westerly line of Alameda Street, where the northerly line of 6th Street, if produced would intersect the same, and being also 192 feet northerly from the southeasterly corner of the J. W. Wolfskill Tract, so called; thence northerly along the westerly line of Aladema Street, 1900 feet, thence at right angles westerly 125 feet, thence southwesterly at an angle of forty-five degrees 247 feet and 49/100ths of a foot to a point distant at right angles from the westerly line of Alameda Street, 300 feet, thence southerly and parallel with said last mentioned line 1520 feet to the northerly line of Sixth Street produced as aforesaid, and thence southeasterly in a right line to the place of beginning.

Subject to the condition that said premises shall be used for a general railroad passenger station and shall revert to the grantors upon breach of said condition by said grantee. And in consideration of the premises the party of the second part covenants, promises and agrees to and with the parties of the first part, that the said Southern Pacific Railroad Company, or some other railroad corporation to be hereafter designated by the party of the second part, shall and will on or before the first day of October, A. D. 1887, commence and prosecute diligently to completion upon the premises hereinbefore described, an arcaded passenger depot, similar in size and general design to the depot now in use in the City of Sacramento, and that said depot shall be used and maintained for general passenger, baggage and express business, and shall contain eating rooms, for the accommodation of travelers, but shall not be used, for general hotel business.

" 'Said party of the second part further covenants that he will within three years from and after date of these presents cause to be removed and abandoned the existing track of the Los Angeles and Independence Railroad now in San Pedro Street from a point, the northerly line of Vejar Street, to a point being the northerly line of the land of the said Francisca Wolfskill de Shepherd, and upon said [fol. 446] removal will cause to be reconveyed to her by the said Southern Pacific Railroad Company, free of charge, that certain strip of land 30 feet wide by about 200 feet in length heretofore conveyed by her to said company.' "

" 'In witness whereof the said parties have hereunto set their hands on the day and year first above written.' "

" '(Signed) J. W. Wolfskill, (Signed) Francisca W. Shepherd, (Signed) Leland Stanford.' ".

And whereas, the aforesaid Leland Stanford, the party of the second part in the aforesaid agreement has designated the Southern Pacific Railroad Company, a corporation, and being the party of the second part herein, as the party to whom the conveyance described in the aforesaid agreement, should be made, under and pursuant to the terms thereof, and

Whereas, the said Southern Pacific Railroad Company, has caused to be erected and completed upon the premises hereinafter described, and being the same premises described in the aforesaid agreement, an arcaded passenger depot such as is particularly described in the aforesaid agreement, and the same is now in use for the purposes for which the same was erected as in said agreement particularly specified.

Now, therefore, the aforesaid parties of the first part, for the purposes of carrying out the conditions by them to be performed, under and pursuant to the terms of the aforesaid and recited agreement, and in consideration of the foregoing, do hereby grant, bargain, sell and convey, to the aforesaid party of the second part, the said Southern Pacific Railroad Company, a corporation, duly incorporated and existing under the laws of the State of California, all that certain real property, situate, lying and being in the City of Los Angeles, State of California, and bounded and particularly described as follows, to-wit:

[fol. 447] Beginning at the southwest corner of Fourth and Alameda Streets in said City of Los Angeles, and running thence along the southerly line of said Fourth Street, North 87°5′ west, 125 (one hundred twenty-five) feet to a point; thence South 47°55′ west 247.48 (two hundred forty-seven and 48/100) feet to a point, which point is also the most easterly common corner of Lots 20 (twenty) and 21 (twenty-one) of Block 13 (Thirteen), of the Wolfskill Orchard Tract; thence south 2° 55′ west, 1530.93 (fifteen hundred thirty and 93/100) feet to a point in the northerly line of Sixth Street, which point is also the south east corner of Lot 1 (One) in Block 14 (Fourteen) of the said Wolfskill Orchard Tract; thence along the northerly line of Sixth Street, South 55°34′ east 351.90 (three hundred fifty-one and 90/100) feet to the westerly line of Alameda Street, thence along the westerly line of Alameda Street north 2°55′ east, 1890 (eighteen hundred ninety) feet to the point of beginning, and containing 12.03 acres of land; which said premises last described are particularly delineated and described upon a map thereof made by J. H. Dockweiler, C. E. dated October 1st, 1889, and hereto annexed and made a part hereof.

And the parties of the first part do hereby declare that the aforesaid conveyance is made subject to the terms and conditions of the said agreement, which is hereinbefore recited at length, and especially subject to the condition that the aforesaid granted and conveyed premises shall be used for a general railroad passenger station, and for general passenger, baggage and express business and not otherwise; provided that eating rooms for the accommodation of travelers may be also maintained therein; and that said premises shall revert to the grantors, or their heirs, executors, administrators or assigns, upon breach of said condition, or of any of the other of the conditions in said agreement herein, recited at length to be performed by the said Southern Pacific Railroad Company, a corporation, or its assigns.

To have and to hold, the aforesaid premises with the [fol. 448] appurtenances as aforesaid; unto the said party of the second part, and its assigns forever.

In witness whereof the said parties of the first part have hereunto set their hands and seals, this 28th day of October, 1889.

J. W. Wolfskill. (Seal.) Francisca Wolfskill de Shepherd. (Seal.)

Signed, Sealed and Delivered in Presence of Henry M. McGill.

Map of the S. P. R. R. Co. Arcade Depot Grounds, situated on the westerly side of Alameda Street bet. Fourth & Sixth Streets, Los Angeles, Cal. and being a portion of the Wolfskill Orchard Tract as per map of same recorded in Book 30 pages 9 to 13 Miscellaneous Records, Los Angeles, Co., Cal. Being the property to be conveyed by J. W. Wolfskill and Mrs. Francisca Wolfskill de Shepherd to the Southern Pacific Railroad Company, a corporation duly incorporated and existing under the laws of the State of California, Map and survey made by J. H. Dockweiler, C. E. October 1st, 1889.

Scale 120 feet to 1 inch."

STATE OF CALIFORNIA,
County of Los Angeles, ss:

On this 28th day of October in the year one thousand eight hundred and eighty-nine before me, N. Lindenfeld, a Notary Public in and for said County of Los Angeles, State of California, residing therein, duly commissioned and sworn, personally appeared J. W. Wolfskill, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

In witness whereof I have hereunto set my hand and affixed my official seal, the day and year above written.

W. Lindenfeld, Notary Public. (Notarial Seal.)

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

On this thirty-first day of October in the year one thousand eight hundred and eighty-nine, before me, Henry M. McGill, a Notary Public in and for said City and County of San Francisco, residing therein, duly commissioned and

sworn, personally appeared Mrs. Francisca Wolfskill de Shepherd, known to me to be the person described in, whose [fol. 449] name is subscribed to and who executed the within instrument, described therein as a married woman; and upon an examination without the hearing of her husband, I make her acquainted with the contents of the said instrument, and thereupon she acknowledged to me that she executed the same, and that she does not wish to retract such execution.

In witness whereof I have hereunto set my hand and affixed my official seal, at my office in the City and County of San Francisco, the day and year in this certificate first above written.

Henry M. McGill, Notary Public. (Notarial Seal.)

STATE OF CALIFORNIA,
County of Los Angeles, ss:

I hereby certify the foregoing to be a full, true and correct copy of the instrument appearing recorded in Book No. 630 of Deeds, Page 187 Records of Los Angeles County, and that I have carefully compared the same with the original record.

In witness whereof I have hereunto set my hand and affixed my Official Seal this 27th day of Feb. 1926.

C. L. Logan, County Recorder, by (Signed) W. Baker, Deputy. (Seal County Recorder Los Angeles County, California.)

#30. A full true and correct copy of the original recorded at request of W. F. & Co. Feb. 19, 1890 at 12 min. past 2 P. M.

John W. Frances, County Recorder, by David S. Whitaker, Deputy.

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R. BOYLIN was called as a witness on behalf of defendants and, having been duly sworn, testified as follows:

I am a land Appraiser for defendant Southern Pacific Company and have been engaged in the Federal Valuation of Railroads since 1915 in the service of the Interstate Commerce Commission and performing that work from

1915 until 1922, thereafter, with the Chesapeake & Ohio and from 1922 to date in the employ of the Southern Pacific Company. While in the employ of the Interstate Com- [fol. 450] merce Commission, my duties required me to make a valuation of rights of way and terminals of carriers, particularly for four years of that time in valuing the lands of carriers west of Chicago, principally in California (Tr. 4844).

**Carriers' Exhibit No. 80, being a map of the union passenger terminal as presented by the Railroad Commission, shows the area embraced within the Hill plan.

When the work of appraising the property was started, an independent zoning was made, which differs in some respects from the zoning made by Mr. McAuliffe. An estimate of the market value of all of the lands had been made and amounts to $3,125,393.00 (Tr. 4848). The total market value for the land as developed by Mr. McAuliffe was $2,520,981.00. The figure quoted is the present market value. The total market value of the land within the terminal would be $3,112,493. When consideration is given to the additional cost incurred to acquire the land for railroad purposes, the improvements, incidental expense, etc., the cost of acquiring and putting the land into railroad operation would be $7,744,415. This compared with $4,316,988, figured by Mr. McAuliffe. Adding the additional areas shown on the map as Zones 8½ and 7½ valued at $198,912, the grand total cost of acquisition is $7,943,327. A survey of the improvements has been made and they are valued at $1,068,117 (Tr. 4870-4875).

Market value of the new lands which would have to be acquired by the railroad in putting their plan into effect is estimated at $147,120, and the total cost of acquisition estimated at $317,803 (Tr. 4875).

The grand total of $7,943,000 includes $1,213,617 for improvements. $112,104 for city taxes based on rate of $3.82 for 2.72 years on land and 1 year on buildings (Tr. 4879).

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** Thereupon there was offered and admitted in evidence, Carriers' Exhibit No. 80 entitled "Los Angeles Union Passenger Terminal proposed by the California Railroad Commission in the City of Los Angeles", which exhibit is certified separately and transmitted as an original exhibit (Tr. 4845).

Present market value of the Hanchett tract is about $3,075,000. The tract was consolidated by Hanchett about 1917, was transferred to the El Paso and Southwestern in [fol. 451] 1924 at $3.70 per square foot, or about six and a quarter million dollars. Legal title passed to the Southern Pacific in 1926 (Tr. 4893-4897).

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W. M. JAEKLE was called as a witness on behalf of defendants and, having been duly sworn, testified as follows:

I am Assistant Engineer of Maintenance of Way and Structures of Southern Pacific Company and have been engaged in active railway service in the Engineering Department of various railroads for 22 years (Tr. 2850).

Thereupon there was offered and admitted in evidence Carriers' Exhibit No. 88, being entitled: "Estimate Los Angeles and Salt Lake Railway Company and Southern Pacific Company Joint Passenger Terminal Facilities," which is certified separately and transmitted as an original exhibit (Tr. 4954).

Carriers' Exhibit 88 is a detailed estimate of the cost of that part of the carriers' project of the Los Angeles and Salt Lake Railroad and Southern Pacific Company. It does not include the Santa Fe estimate, which is already in evidence, presented by Mr. Ball. The first sheet of carriers' Exhibit 88 is a summary of the cost (Tr. 4956).

I have prepared an exhibit making a comparison of the costs of the Plaza plan as estimated by the Commission's and carriers' engineers, respectively.

Thereupon there was offered and admitted in evidence Carriers' Exhibit No. 90, being entitled "Comparisons of Estimates of Commission's Plaza plan as made by Commission Engineers and by Carriers' Engineer," which is in the following form (Tr. 4955):

[fol. 452] Case No. 970

CARRIERS' EXHIBIT No. 90

Comparison of Estimates of Commission's Plaza Plan as made by Commission's Engineers and by Carriers' Engineers

| Items | By carriers' engineers, Units | Totals | By Commission's engineers |
|---|---|---|---|
| **Grading:** | | | |
| Excavation, 10,000 C.Y. @ $.70 | $7,000 | | |
| Embankment, 150,000 C.Y. @ $7.21 | 31,500 | | |
| | | $38,500 | $38,500 |
| **Retaining Walls:** | | | |
| Concrete, 2,615 C.Y. @ $15.00 | | 39,225 | 39,225 |
| **Tracks:** | | | |
| New 90# track, 38,140 ft. train tracks<br>5,580 ft. mail & express | | | |
| 43,720 ft. # $5.00 | | 218,600 | 205,000 |
| **Switches:** | | | |
| Split, 38 Ea. @ $400.00 | $15,200 | | |
| Double Slip, 19 Ea. @ $1800.00 | 34,200 | | |
| | | 49,400 | 44,800 |
| **Crossings:** | | | |
| Crossings, 17 Ea. @ $1200.00 | | 20,400 | 25,200 |
| **Paving, Curb & Gutters** | | 107,500 | 107,500 |
| **Interlocking: Labor and material** | | 310,000 | 250,000 |
| **Station Building,** 3,222,200 C.Y. @ $.50 | $1,611,100 | | |
| 1,535,100 " " .30 | 460,530 | | |
| | | 2,071,000 | 1,500,000 |
| **Bridge over Alameda Street** | | 57,475 | ..... |
| **Umbrella Shade,** 18,500 L' @ $20.00 | | 370,000 | 140,000 |

| | | | | |
|---|---|---|---|---|
| Drainage, Piping & Lighting | | | 136,000 | 136,000 |
| Carried Forward | | | $3,418,100 | $2,486,225 |
| [fol. 453] Brought Forward | | | $3,418,100 | $2,486,225 |
| Engineering, Interest and Contingencies 27% | | | 922,887 | 671,280 |
| | | | $4,340,987 | $3,157,505 |

19—470

Santa Fe track changes incidental to Plaza plan not included in Hill estimate:

| | | | |
|---|---|---|---|
| Connection to Serve Industries Keller St.: | | | |
| 1600' new track @ $5.00 | $8,000 | | |
| 2 Frogs and Switches @ $400.00 | 800 | | |
| Grading, 800 C.Y. @ $.50 | 400 | | |
| | | $9,200 | |
| Connection to Commercial Street: | | | |
| 750' new track at $5.00 | 3,750 | | |
| 1 Frog and Switch @ $400.00 | 400 | | |
| Grading, 375 C.Y. @ $.50 | 187 | | |
| Paving, 3,150 Sq. ft. @ $.30 | 945 | | |
| | | 5,282 | |
| Switching Load—Ducommon St. to N. of Macy St.: | | | |
| 2,900 ft. new track @ $5.00 | 14,500 | | |
| 6 Crossings @ $1,200.00 | 7,200 | | |
| Grading, 1,350 C.Y. @ $.50 | 675 | | |
| 1 Switch, @ $400.00 | 400 | | |
| | | 22,775 | |
| Fourth River Track—Ducommon St. North: | | | |
| 2,600 ft. new track @ $5.00 | 13,000 | | |
| 4 Crossings @ $1,200.00 | 4,800 | | |
| Grading, 1,300 C.Y. @ $.50 | 650 | | |
| | | 18,450 | |

280

CARRIERS' EXHIBIT No. 90—Continued

| Items | | By carriers' engineers, Units | Totals | By Commission's engineers |
|---|---|---|---|---|
| Double Track—Ducommon to Sixth Streets: | | | | |
| 10,200 ft. new track @ $5.00 | 51,000 | | | |
| 2 Frogs and Switches @ $400.00 | 800 | | | |
| 1 Crossing @ $1,200.00 | 1,200 | | | |
| Grading, 5,100 C.Y. @ $.50 | 2,550 | | | |
| | | 55,550 | | |
| Carried Forward | | $111,257 | $4,340,987 | $3,157,505 |
| [fol. 454] Brought Forward | | $111,257 | $4,340,987 | $3,157,505 |
| Passenger Connection—Ducommon to First Streets: | | | | |
| 3,600 ft. new track @ $5.00 | $18,000 | | | |
| 2 Frogs and Switches @ $400.00 | 800 | | | |
| 5 Crossings @ $1,200.00 | 6,000 | | | |
| Grading, 1,800 C.Y. @ $.50 | 900 | | | |
| | | 25,700 | | |
| Connections to Yard Foot of Jackson Street: | | | | |
| 1,200 ft. new track @ $5.00 | 6,000 | | | |
| 4 Frogs and Switches @ $400.00 | 1,600 | | | |
| Grading, 600 C.Y. @ $.50 | 300 | | | |
| | | 7,900 | | |
| Switching Load Alhambra Avenue North: | | | | |
| 5,200 ft. new track @ $5.00 | 26,000 | | | |
| Grading Embankment, 70,000 C.Y. @ $1.00 | 70,000 | | | |
| Riprap, 4,000 C.Y. @ $3.00 | 12,000 | | | |
| Replace switches, 1 @ $75.00 | 75 | | | |
| Paving Main St. 1,400 sq. ft. @ $.50 | 700 | | | |
| 2 Crossings @ $1,200.00 | 2,400 | | | |
| | | 111,175 | | |
| Total Estimates Cost New Tracks | | 256,031 | | |

| | | | |
|---|---|---|---|
| Add 27% | 69,129 | | |
| Total | $325,160 | | |
| Damages and Property Purchase: | | | |
| Structural damages Crane Co. Keller St. | 25,000 | | |
| Structural damages Cudahy Packing Co. | 50,000 | | |
| Purchase Alhambra Ave. Main Street | 25,000 | | |
| Bureau of Power & Light Changes | 5,000 | | |
| | | 430,160 | |
| Carried Forward | | $4,771,147 | $3,157,505 |
| [fol. 455] Brought Forward | | $4,771,147 | $3,157,505 |
| Additional Interlocking: North Broadway | $40,000 | | |
| Aliso Street | 26,000 | | |
| Alhambra Avenue | 8,000 | | |
| Engineering, Interest and Contingencies 27% | 19,980 | | |
| | | 93,980 | |
| Land and Improvements | | 7,943,327 | 4,316,988 |
| Excess Cost Aliso St. Viaduct and R. R. Bridge across River | | 514,650 | 514,650 |
| | | 13,323,104 | 7,989,143 |
| S. P. Coach Yard | | 419,679 | 416,780 |
| Salt Lake Unit No. 2 | 93,072 | | |
| Alhambra Connections, S. P. | 85,953 | | |
| " " S. L. | 24,670 | | |
| S. P. Unit No. 2 | 444,769 | | |
| Second Track, Macy Street | 30,592 | | |
| | | 679,056 | 511,200 |
| S. P.-S. L.-S. F. Connections at east and west banks river at Hobart | | 159,150 | 258,480 |
| | | 14,580,989 | 9,175,603 |
| Vignes Street Subway | | 315,500 | |
| Parking Space East of Los Angeles Street: | | | |
| Paving, 96,000 Sq. ft. @ $.30 | 28,800 | | |
| Curbing, 800 L. ft. @ 1.50 | 1,200 | | |
| Engineering, Interest and Contingencies, 27% | 8,100 | 38,100 | |
| Totals | | $14,934,589 | $9,175,603 |

[fol. 456] The comparison of the estimates of the Commission's Plaza plan, made by the Commission's engineers, with those made by the carriers' engineers, is explained as follows: The two agree on the first and second items. The cost of the tracks is increased about $13,600.00 due to the fact that the additional 1400 feet of track along the Santa Fe right of way shown in Exhibit 4-B was not in the original exhibit. Additional switches also increased the item in the Plaza estimate $4,600.00. The crossings in the carriers' estimate represents a saving of $4,800.00. The cost of interlocking has been increased from $250,000.00 to $310,000.00. Under Exhibit 4-B, 194 movements are necessary instead of the 157 previously estimated. The station building has been increased from $1,500,000.00 to $2,071,000. In this estimate there was not included the projection of the building over Alameda Street. The revised estimate has been made on the basis of Mr. Hill's dimensions and gives 3,206,400 cubic feet at 50¢ for the building and 1,535,100 cubic feet at 30¢ for the concourse. The total of these two items is $2,093,000.00 — slightly in excess of the revised estimate (Tr. 4962).

Nothing has been provided in the Commission's engineers' estimate for the bridge over Alameda Street and this adds $57,485.00 to the estimate.

In the item of umbrella sheds, the Commission's engineers estimate $140,000.00 but the carriers' engineers estimate $370,000.00. The difference is due to the fact that the Commission's engineers have not provided umbrella sheds over the entire length of the passenger platforms and none at all over the baggage platforms.

Up to this point, the estimate of the carriers' engineers is $3,418,000.00 compared with the Commission's total of $2,486,225.00; adding the usual allowance for engineering, etc., the comparison becomes $4,340,987.00 and $3,157,505.00 (Tr. 4963).

The additional tracks amount to $430,160.00, and additional interlocking of $93,980.00.

[fol. 457] For the land and improvements, the carriers' estimate is $7,943,327.00 compared with the Commission's figure of $4,316,988.00.

The excess cost of the Aliso Street viaduct is agreed upon at $514,650.00.

A slight difference in the estimate of the Southern Pacific coach yard increases the Commission's estimate by less than $3,000.

The total cost of the necessary connections, etc, is $679,056. for the carriers' estimate, compared to $511,200.00 for the Commission's, the difference being due to revision and correction of the previous estimate (Tr. 4965).

The connections on the east and west banks of the river at Hobart are estimated by the Commission at $258,480.00 and by the carriers' engineers at $159,150.00.

The Vignes Street subway has been estimated at $315,500.00 by the carriers, no similar item being provided by the Commission's engineers.

To provide space for an auto park east of Los Angeles Street adds $38,100.00 to the estimate of the carriers' engineers, the Commission's engineers providing no estimate for this item.

The totals for the carriers' estimate of the Hill plan is $14,934,589.00 against the Commission's engineers' estimate of $9,175,603.00 (Tr. 4966).

I will wish to make a few observations of some of the Commission's exhibits on the matter of adequacy. California Railroad Commission Exhibit No. 28 was presented to show normal and maximum number of passengers handled in and out of Los Angeles for a period of 60 minutes in January, 1926. The Commission's witness stated the information from which this statement was compiled was obtained from the carriers. The compilation of this information in Commission's Exhibit No. 28 is somewhat erroneous and misleading. It shows the total number of passengers handled in the peak hour of a normal day of 1508, and a maximum day of 1837. We have prepared an [fol. 458] exhibit entitled, "Statement showing normal and maximum number of passengers handled in and out of Los Angeles for a period of 60 minutes, January, 1926".

Thereupon there was introduced in evidence carriers' Exhibit No. 101, which is in the following form (Tr. 5027):

CASE No. 970

CARRIERS' EXHIBIT No. 101 (REVISED).

C. R. C. Exhibit No. 28 as Revised by Carriers

Statement Showing Normal and Maximum Number of Passengers Handled In aod Out of Los Angeles for a Period of Sixty Minutes, January — 1926

| Company | Peak hour of normal day | | Peak hour of maximum day | | |
|---|---|---|---|---|---|
| S. P. Co. | 859 | 7:30 to 8:30 A. M. | 973 | 7:30 to 8:30 A. M. | Jan. 17th |
| Santa Fe | 482 | 2:00 to 3:00 P. M. | 528 | 2:00 to 3:00 P. M. | Jan. 17th |
| Salt Lake | 179 | 8:30 to 9:30 A. M. | 304 | 6:30 to 7:30 A. M. | Jan. 18th |

Maximum Hour—7:30 to 8:30 A. M.

| Company | Normal day | Maximum day |
|---|---|---|
| S. P. Co. | 859 | 973 |
| Santa Fe | 121 | 160 |
| Salt Lake | 0 | 0 |
| Total | 980 | 1133 |

Normal day—January, 1926.
Maximum day—January 17th, 1926.

This shows the number of passengers handled in the peak hour of a normal day as 980, and maximum day as 1133. The discrepancy in Commission's Exhibit No. 28 is apparent in that the peak hour of passengers handled on the Santa Fe is between 2 and 3 p. m., whereas the peak hour of the Southern Pacific is between 7:30 and 8:30 a. m., and the peak hour of the Union Pacific is between 6:30 and 7:30 a. m. Manifestly we cannot add the passengers handled in these three different peak hours and then call it a maximum number of passengers handled in a period of 60 minutes in Los Angeles (Tr. 5028).

With reference to the adequacy of the Southern Pacific station it is stated on page 37 of the Sachse report that [fol. 459] "Based on Chicago experience the 12 tracks of the Southern Pacific station will be sufficient for 140 trains expected in the future."

While Mr. Sachse refers to 140 trains per day, our chart of trend of passenger traffic shows that this number of trains is not likely to be required in Los Angeles for the three carriers for a period of 50 years, and probably longer, for the Southern Pacific and Union Pacific alone, which will occupy the Central station under the carriers' plan. It seems to me it is therefore plainly evident that the con-

clusions of the Commission's witness on page 3220 of the transcript that the capacity of the station yard at the Central Station for joint use of the Southern Pacific and Salt Lake will not be adequate for a period of more than 15 years, is not sound and hardly based on the facts in the case (Tr. 5073-5075).

At Los Angeles the transfer of passengers between stations is practically negligible.

Checks made in January and February, 1926, covering periods of a week or more indicate that this transfer between stations did not exceed 1.4 per cent of the incoming and outgoing passengers, as shown on carriers' Exhibit 107 (Tr. 5093).

Thereupon there was offered and admitted in evidence Carriers' Exhibit No. 106, being entitled: "Comparative Financial Statement Carriers' Plan—Plaza Plan," which is in the following form (Tr. 5089).

Case 970 et seq.

CARRIERS' EXHIBIT No. 106

Comparative Financial Statement—Carriers' Plan—Plaza Plan

Carriers' Plan

| A | B | C | D | E | F | G |
|---|---|---|---|---|---|---|
| Description | New money | Credits | Excess annual operating expenses capitalized | Net equivalent cost B-C plus D | Valuation existing facilities | Total equivalent valuation |
| 1. Sou. Pac. & Salt Lake, New Construction and Land | 4,330,281 | ..... | ..... | ..... | ..... | ..... |
| 2. A. T. & S. F. New Construction | 1,182,317 | ..... | ..... | 5,512,598 | ..... | ..... |
| 3. Passenger Station and Appurtenances—Central Station | ..... | ..... | ..... | ..... | 802,282 | ..... |
| 4. Land Central Station Site | ..... | ..... | ..... | ..... | 3,837,550 | ..... |
| 5. Land Santa Fe Site | ..... | ..... | ..... | ..... | 950,000 | ..... |
| 6. Land Salt Lake for pass. tracks, 6th Street North | ..... | ..... | ..... | ..... | 151,200 | ..... |
| 7. Land Salt Lake for pass. tracks, 6th St. to South of 9th St. | ..... | ..... | ..... | ..... | 73,313 | ..... |
| 8. Totals | 5,512,598 | ..... | ..... | 5,512,598 | 5,814,345 | 11,326,943 |
| | Plaza Plan | | | | | |
| 9. New Construction and Land | 14,934,589 | ..... | ..... | ..... | ..... | ..... |
| 10. Central Station Site: | | | | | | |
| Land fee owned 1,006,150 | ..... | ..... | ..... | ..... | ..... | ..... |
| Less value loss station building 646,950 | ..... | ..... | ..... | ..... | ..... | ..... |
| 359,200 | ..... | 359,200 | ..... | ..... | ..... | ..... |
| 11. Santa Fe Station site | ..... | 950,000 | ..... | ..... | ..... | ..... |
| 12. Land Santa Fe—Operating | ..... | ..... | ..... | ..... | 477,258 | ..... |
| 13. Excess Operating Const. Plaza Plan over Carriers, Capitalized: | | | | | | |
| 85372 Annually at 5% | ..... | ..... | 1,707,440 | ..... | ..... | ..... |
| 14. Totals | 14,934,589 | 1,309,200 | 1,707,440 | 15,332,829 | 477,258 | 15,810,087 |

[fol. 461] Carriers' Exhibit 106 shows a comparison of new money costs. The upper half of the sheet has to do with the carriers' plan. The first item "Southern Pacific-Salt Lake New Construction, $433,281", is the total of the details that were submitted in Exhibit 88. $1,182,317 in the first column is the estimate submitted by Mr. Ball for Santa Fe improvements, making a total of new money for the carriers' plan of $5,512,598. That same amount is shown in column E and F. We have various items representing a valuation of existing facilities that will be used in the new project of the carriers totaling $5,814,345, making the total equivalent valuation $11,326,943. That would be the facilities in passenger use if the carriers' plan were put into effect. On the lower half of the sheet are the items for the Plaza plan. $14,934,589 is the amount I testified to in Exhibit 90 showing comparative costs of the carriers' plan and the Plaza plan. In the next column headed "Credits" we have two items amounting to a total of $1,309,200. Item 10, "Central Station Site", shows the land owned in fee, less the Wolfskill land (Tr. 5089-5090).

The Hanchett lands are already owned by the Southern Pacific Company and constitute two-thirds of the entire lands involved in the so-called Hill Plan (Tr. 5292). I think the buildings that are proposed by Mr. Hill, described in his testimony, would cost $2,071,000, as indicated in Carriers' Exhibit 90 (Tr. 5293). The station building at the Arcade site cost $462,043 as of 1914. It would cost a little over $800,000 to reproduce that station building at the Arcade site at the present time (Tr. 5294). My total estimate of the cost of the Hill plan amounts to $14,934,589. The total allowance made by the Interstate Commerce Commission, appearing at page 449 of the report, shows $9,256,118. My total here is some $5,800,000 in excess of the figure allowed by the Interstate Commerce Commission in its decision in Case 14778 (Tr. 5297).

Our checks showing the number of steam line passengers transferring to steam lines in Los Angeles shown on Car-
[fol. 462] riers' Exhibit No. 107, were made by putting special men on each passenger train. In the case of the Southern Pacific, we used conductors, and I think the same sort of men were used on the other two roads. These men

boarded the trains and ascertained from each passenger as to what his destination was and whether he was transferring to another train or to another steam line or another station. The check included only those passengers who intended to transfer immediately from one of these steam lines to another (Tr. 5298-5299).

With reference to the Plaza lands, my figures, shown on Carriers' Exhibit No. 99, include 65 to 89 per cent for the additional cost of acquisition (Tr. 5304).

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R. BOYLIN, was recalled as a witness on behalf of defendants and, having been duly sworn, testified as follows:

I am inclined to agree with Mr. McAuliffe that if the entire Central Station tract of 689,468 square feet were fee-owned, with no question of its title whatever, it would have a salvage value of $4.50 per square foot or $3,102,606. Now, as I recall Mr. McAuliffe's testimony, on cross-examination by Mr. Karr, he stated that if that were not true but those were two separate ownerships, the Central Avenue frontage, that is, the fee-owned portion, would have a salvage value of $5 per square foot, and that the Wolfskill tract would have a salvage value of $3.50 per square foot (Tr. 5215-5216).

I believe that the salvage value of the entire Central station tract, if it were in one ownership with an absoluetly clear title, would be $4.50 per square foot, which, for the 689,468 square feet contained in that tract, would amount to $3,102,606. Now, considering the Southern Pacific Company's portion of that tract (Tr. 5217) separately from the Wolfskill tract, if there were no possibility of recombining them, I think that the Wolfskill tract would not be worth over $3.50 per square foot. But it would be so manifestly to the mutual advantage of both of the owners to combine the tract and sell it as one the tract as a whole would have [fol. 463] a value of $4.50 per square foot; and to the Wolfskill deed I would consider that the proper proportion of that value would be $4.00 per square foot, or, for the 524,114 square feet, $2,096,456. That would leave as the salvage value of the fee ownership, or the price which the owner

of the Wolfskill tract could afford to pay to the Southern Pacific Company for fee ownership, $1,006,150 or $6.08 per square foot (Tr. 5218).

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F. L. BURCKHALTER was called as a witness on behalf of defendants and, having been duly sworn, testified as follows:

I am First Assistant General Manager of the Southern Pacific Company and have been in the railroad business twenty-six years. I have made an intensive study of the railroad situation in Los Angeles, with particular reference to passenger terminal facilities (Tr. 5133-5134). Considering all the parties in interest in this proceeding, there are two major objectives. One is the elimination of grade crossings, and the other, on the part of some of the parties, is the accomplishment of a union station enterprise. As far as the carriers are concerned, their project contemplates the elimination of both the steam and electric grade crossings, and it also contemplates, as far as the Santa Fe is concerned, the provision of a new passenger station, the Union Pacific and Southern Pacific to continue in the existing adequate central station. The Commission's plan provides for a union station, as shown by the Hill plan, but does not include the elimination of the Pacific Electric grade crossings, as I understand it. These proposals involve large expenditures, and I have endeavored to estimate or allocate the proportion of the proposed expenditures to grade crossing as distinguished from station improvement. Public benefits through the separation of grade crossings in Los Angeles will be great. The grade crossing situation is difficult; it is the most difficult situation of that kind anywhere in the West that I have ever seen or known of. It is a situation that has long been up for correction and the plans of the carriers afford a means of correction of this very bad grade crossing situation within [fol. 464] a very short period of time. The public interest will be served in the carriers' plan by an expediture on the part of the steam carriers for grade separation of about $4,330,000. This expenditure would accomplish the elimi-

nation of 43 steam line railroad grade crossings, over which there are about four thousand train movements per day. From data in the record I conclude that Alameda Street, which is occupied by the Southern Pacific and in part by the Union Pacific for a distance of about four miles is crossed by about 125,000 vehicles per day. From intersecting streets there are about four thousand street cars crossing Alameda Street today. If we assume there are two people on an average in the vehicles and about 20 people on an average on the street cars, we find that some 330,000 people per day cross the steam railroad lines on Alameda Street. The existing steam line operations impose a tremendous interference to that cross traffic and impose a considerable interference to the traffic along Alameda Street. There are also a good many pedestrians crossing the street as well (Tr. 5135-5136).

Mr. Jaekle introduced Carriers' Exhibit No. 106, which shows the cost of the carriers' plan, not including the Pacific Electric expenditure, as compared with the Hill plan at the Plaza, the estimate being those of the railroad company's engineers in both instances. I find that the cost of the carriers' project is $4,330,000 for the Southern Pacific and Salt Lake new construction, practically all of which, for the purpose of discussion, will be attributed to grade crossing elimination, whereas, the Santa Fe new construction will be properly attributable to station improvement. On the Hill plan estimate, as given in Carriers' Exhibit 106, there has been no credit allowed for the so-called "Wolfskill property". I don't know whether any credit will accrue on that if the Central Station is abandoned. But assuming that the credit did accrue, I think it would be $1,834,400. Deducting that from the new money cost of the Hill Station along with the projects shown in Col- [fol. 465] umn C, would make the new money cost, net, $11,791,000 as compared with $5,512,000 under the carriers' proposal. Assuming that this $11,791,000 net new money expenditure is necessary at the Hill Plaza plan, the difference between $4,330,000, the carriers' cost of eliminating grade crossings, and that sum represent the cost that is properly chargeable to the consummation of the union station project. That difference would be $6,278,000. The carriers could eliminate these grade crossings for $4,330,-

000 under their plan. So I assume that the same amount of money needed for the Hill plan should be charged to grade crossing elimination and the balance, $6,278,000, of what I call net new money, is chargeable to the union station project (Tr. 5138-5139).

I cannot find that the public gets much of anything in the way of benefits out of the expenditure of $6,278,000 for a union station in Los Angeles (Tr. 5140). The grade crossing problem not only in this city, but in the state and throughout the country, is one of the big problems. We seem to be creating grade crossings much faster than we eliminate them (Tr. 5146).

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GEORGE S. HILL, witness recalled on behalf of the Commission, testified as follows:

I do not desire to make any changes in my estimate of the costs of carrying the Commission's Plaza plan, set forth on its Exhibit 4-B, into effect in view of the criticisms which have been made of my estimates by Mr. Jaekle in Carriers' Exhibit 90. Although there may be some minor items which may be low by small amounts, I consider the estimate taken as a whole, is large enough to build an adequate union station on the site indicated. As an example of why I consider Mr. Jaekle's figures too high, I would cite the station building. I believe Mr. Jaekle's figures are too high both as to the cubic contents and the units used. In my estimates the total allowance made for the station building is $1,500,000 plus 27%, making a total of $1,905,000. The foot bridge and other incidental items are included with the station building. Moreover, I testi- [fol. 466] fied before the Interstate Commerce Commission that the unit prices of 50¢ and 30¢ included contingencies of 25%, but Mr. Jaekle has added another 27% to these units (Tr. 5328-5329). My cost estimates include 15 per cent for contingencies (Tr. 5345).

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A. G. MOTT, witness recalled on behalf of California Railroad Commission, testified as follows:

Thereupon there was offered and admitted in evidence California Railroad Commission Exhibit 56, being entitled:

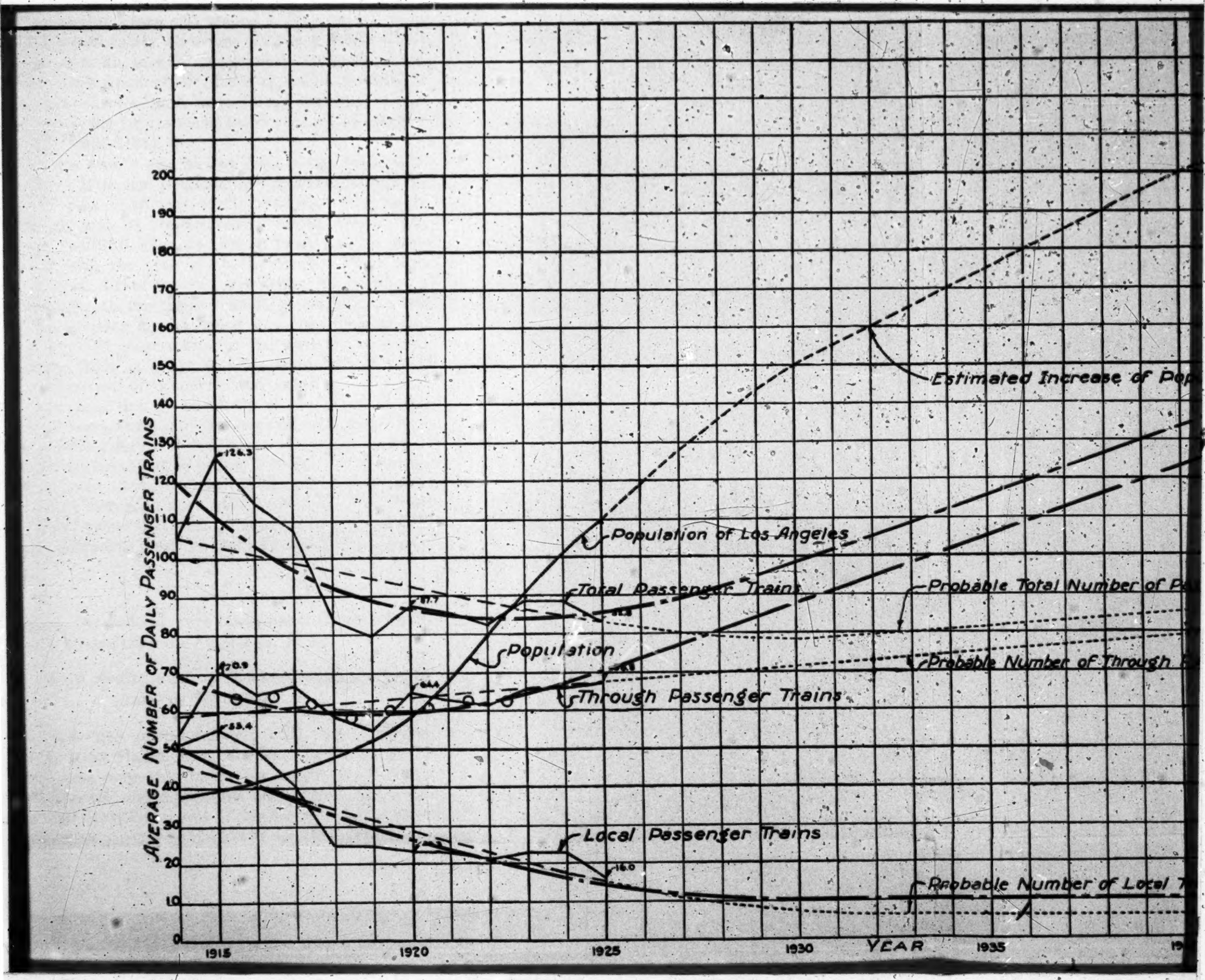
"Chart Showing Increase of Population and Trend of Passenger Traffic on all Steam Lines in Los Angeles", which is in the following form (Tr. 5421):

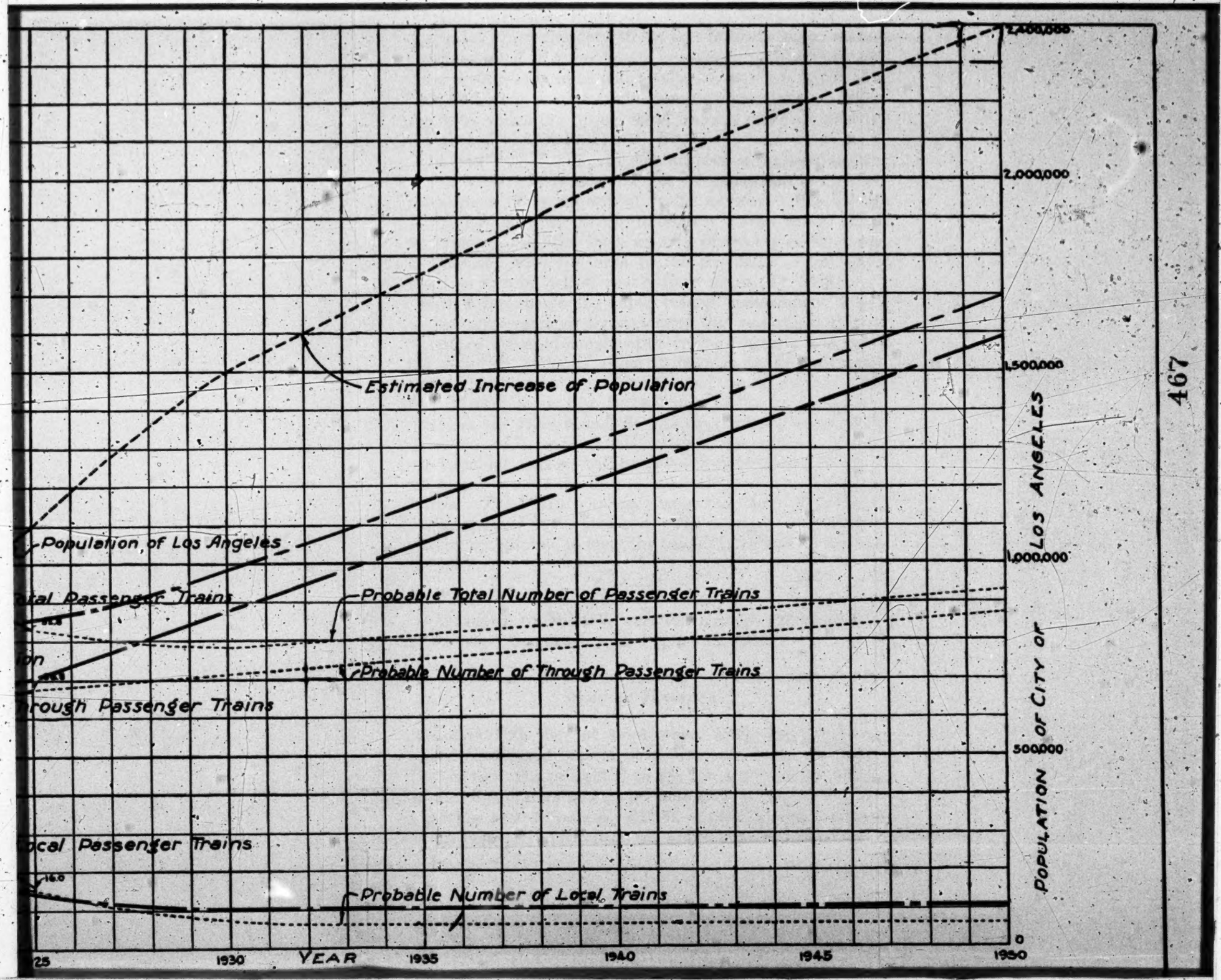
(Here follows Commission Exhibit No. 56, side folio 467)

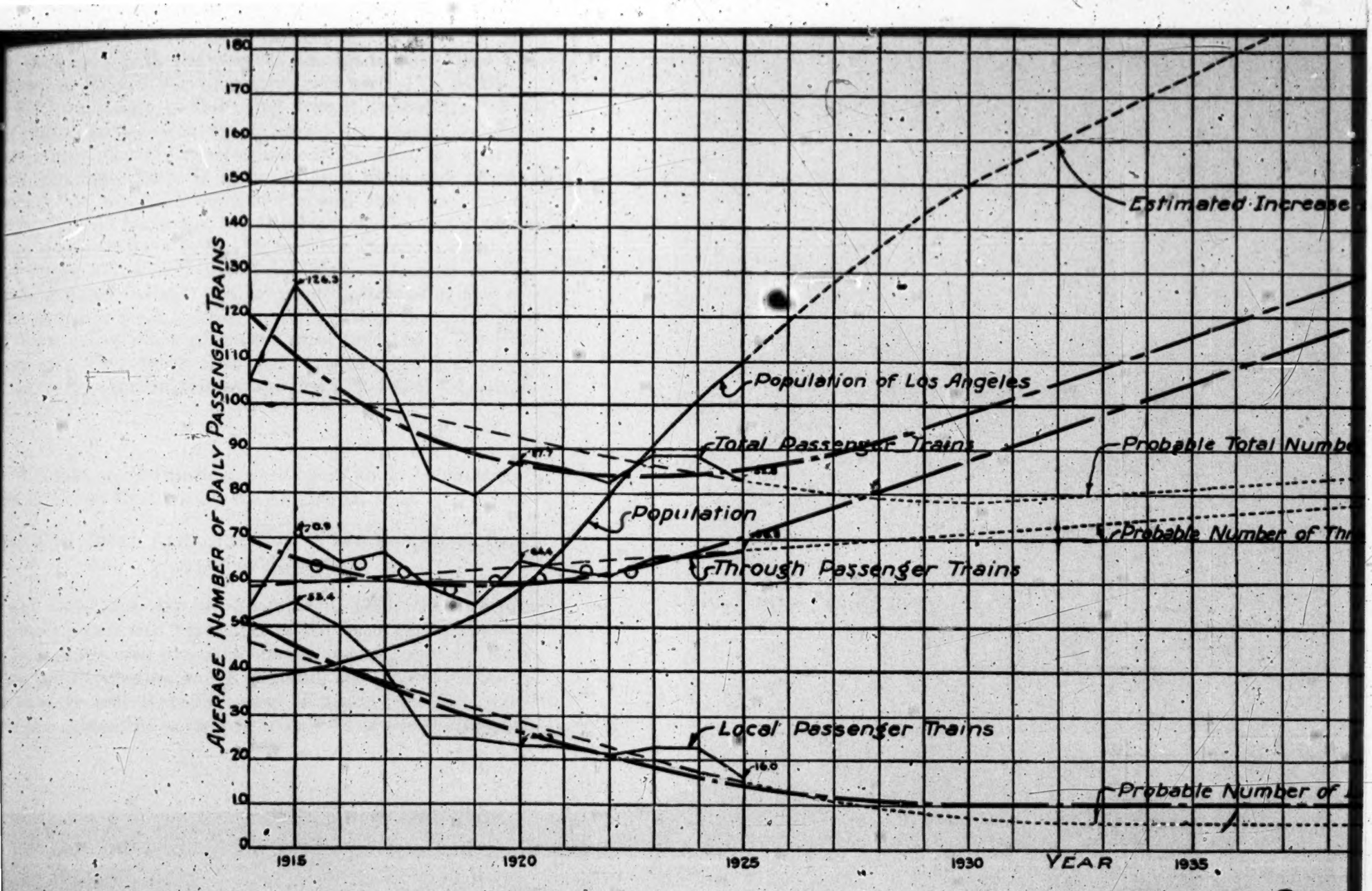
[fol. 468] My best judgment as to the expectancy of future railroad traffic in Los Angeles based upon past trends is represented by the lines which I have superimposed upon Mr. Jaekle's exhibit, colored in red. These lines thus shown on Railroad Commission's Exhibit 56 indicate a total of 98 trains will be operated by 1930 and a total of 170 trains by 1950 (Tr. 5421).

Mr. Burckhalter, in his testimony, pointed out that so far as this problem is a grade crossing problem, the Southern Pacific's proposal, at an expense admitted by his engineers to be something over four million dollars, will eliminate the grade crossing situation complaint all along Alameda Street. He apparently holds the view that any expense incurred over and above this amount under any plan whatsoever is an expense which should be properly chargeable to the provision of station facilities. If the estimates of cost for the whole plan prepared by the Commission's engineers are correct, and I believe them to be so, the investment under the Hill plan for a union station as a station, will amount to $9,175,603, less than $4,330,281 referred to by Mr. Burckhalter for grade crossings, leaving only $4,845,322 for the provision of station facilities, which compares with the investment under the carriers' plan of $11,326,943, less the grade crossing elimination feature of $4,330,281, or $6,996,662 that will result for station facilities themselves under the carriers' plan. It thus appears from Mr. Burckhalter's point of view that the carriers' plan, in addition to all the other disadvantages it may have, will place a burden on the people of paying a return on an excess investment for station facilities amounting to over $2,000,000, over and above the cost of a union station located as shown in Railroad Commission Exhibit 4-B in the Plaza area (Tr. 5422-5423).

In considering the matter of the adequacy of the Plaza site, there should be taken into consideration its size and its shape and the possibility of future expansion. The


AVERAGE NUMBER OF DAILY PASSENGER TRAINS
YEAR
1915
1920
1925
1930
1935
Estimated Increase of Pop
Population of Los Angeles
Total Passenger Trains
Probable Total Number of Pa
Population
Probable Number of Through
Through Passenger Trains
Local Passenger Trains
Probable Number of Local T
124.3
70.9
53.4
16.0


2,500,000
2,000,000
1,500,000
1,000,000
500,000
0
POPULATION OF CITY OF LOS ANGELES
Estimated Increase of Population
Population of Los Angeles
Probable Total Number of Passenger Trains
Probable Number of Through Passenger Trains
Probable Number of Local Trains
16.0
1925
1930
YEAR
1935
1940
1945
1950
467




NOTE

O FOUR YEAR AVERAGES

CALIFORNIA RAILROAD COMMISSION

EXHIBIT 56

Sou

Ex

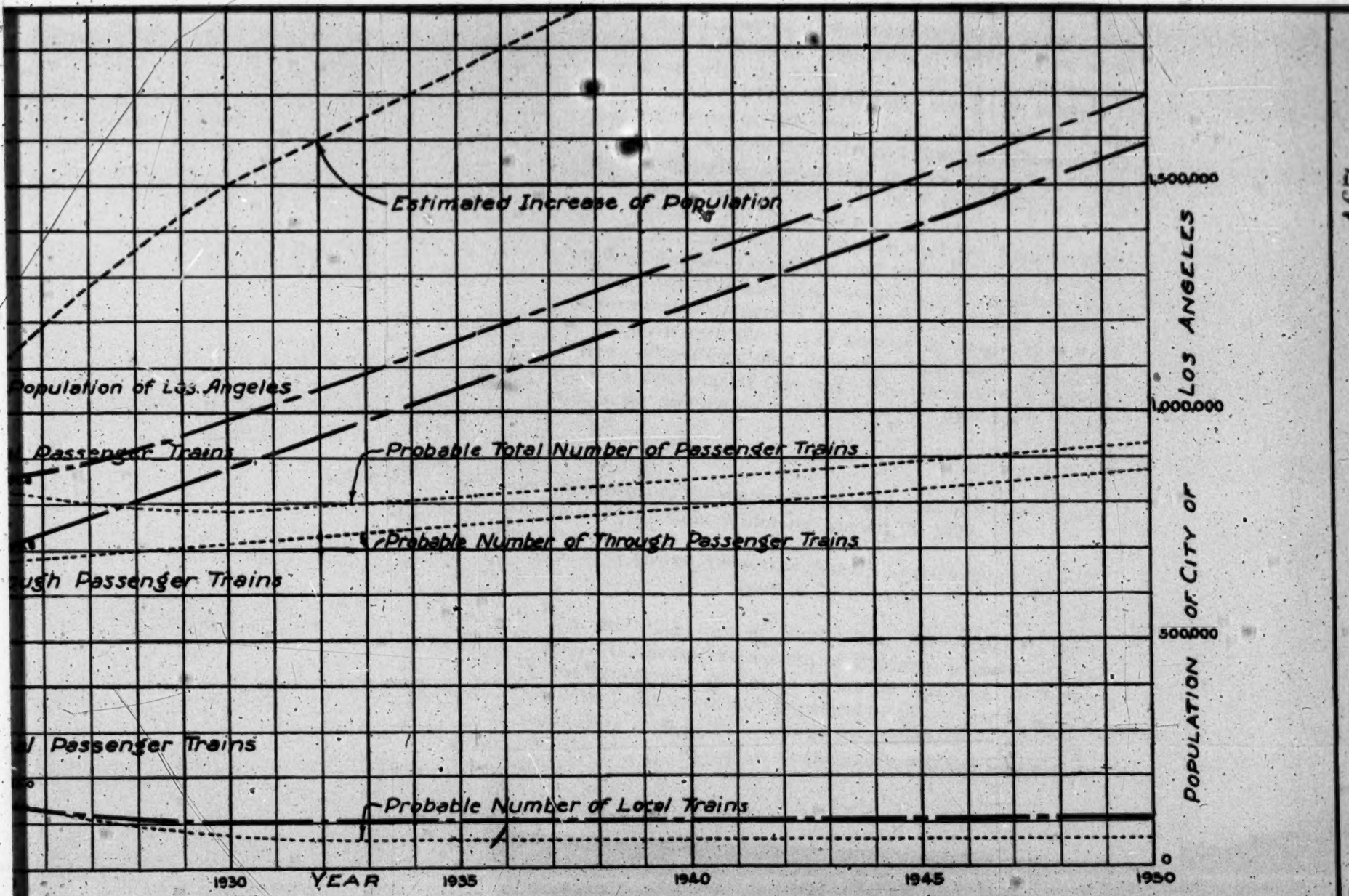
CHART SHOWING

TREND OF PASSE

LINES

S

SHOWING AL




467

SOUTHERN PACIFIC CO.

Exhibit.....

# CHART SHOWING INCREASE OF POPULATION AND TREND OF PASSENGER TRAFFIC ON ALL STEAM LINES IN LOS ANGELES.

SUPPLEMENTAL CHART
SHOWING ALTERNATE LINES OF FORECAST

RAILROAD COMMISSION
EXHIBIT 56

[fol. 469] particular Plaza site shown in Exhibit 4-B is of an area of approximately 40 acres. It has a shape which is well adapted to an adequate passenger terminal layout. It has certain area upon which future expansion could take place, and other carrier lands immediately adjacent to that area upon which the future could be even more adequately protected (Tr. 5427-5428).

The Southern Pacific site has an area of approximately sixteen acres. It is not possible of expansion except by relocation of very important traffic arteries. The Santa Fe site has an area of approximately eleven acres. The two separate facilities have an area of twenty-seven acres as compared with the area in the particular Plaza plan shown on Exhibit 4-B of nearly forty acres (Tr. 5428).

With reference to the rapid transit accessibility, I see no reason for revising my statement that regardless of any temporary elevated construction in the westerly and easterly direction, there is going to be a main link of rapid transit development on a north and south axis in this city. If that main link or backbone of the rapid transit plan does not have favorable and convenient contact with the steam railroad terminal facilities, we cannot say that such terminal stations will be properly located or that they will properly meet the test of accessibility from that point of view. The Plaza plan does meet that test. The Plaza area as a whole meets that test. The carriers' plan utterly fails, in my opinion, to meet the test (Tr. 5430-5431, August 11, 1926).

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Whereupon, the matters were taken under submission by the Railroad Commission on August 11, 1926.

[fol. 470] ORDER APPROVING AGREED AND CONDENSED STATEMENT OF EVIDENCE

On this 12th day of September, 1930, the foregoing Agreed Condensed Statement of Evidence in the above entitled causes was presented to me for approval by Solicitors for Petitioners and Appellants and Attorneys for Respondents and Appellees, and it appearing that counsel for the respective parties to the above entitled causes have

executed a stipulation contained herein agreeing upon said Agreed Condensed Statement of Evidence, I now find said statement to be true, complete and properly prepared and order said statement to be filed in the Clerk's office and become a part of the record for the purposes of the appeals herein.

William H. Waste, Chief Justice Supreme Court of the State of California.

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[fols. 471 & 472] "Stipulation and Order dated August 18, 1930, in S. F. No. 13056, S. F. No. 13057 and S. F. No. 13058, enlarging and extending time to docket causes and to file record on appeal; omitted in printing."

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[fol. 473] In Supreme Court of California.

Clerk's Certificate

I, B. Grant Taylor, Clerk of the Supreme Court of the State of California, do hereby certify that the above and foregoing is a true, full, correct and complete transcript of the record, assignment of errors and proceedings had in the causes numbered S. F. No. 13056, S. F. No. 13057 and S. F. No. 13058, wherein Atchison, Topeka & Santa Fe Railway Company; and Los Angeles and Salt Lake Railroad Company; and Southern Pacific Company and Southern Pacific Railroad Company; are respectively petitioners and the Railroad Commission of the State of California and its members, Leon O. Whitsell, C. L. Seavey, Ezra W. De Coto, Thomas S. Louttit and W. J. Carr, are respondents, as the same were designated and condensed by the stipulations of counsel except that the following items in the Joint Præcipe for Transcript of Record and Stipulation:—Item 17, Application of Southern Pacific Company for rehearing on Decision 18593, filed with the Railroad Commission July 16, 1927; Item 18, Application of Los Angeles and Salt Lake Railroad Company for rehearing on Decision 18593, filed with the Railroad Commission July 16, 1927; Item 19, Application of the Atchison, Topeka & Santa Fe Railway Com-

pany for rehearing on Decision 18593, filed with the Railroad Commission on July 21, 1927, have not been set forth separately above because they are each set out and quoted in full in the respective petitions for writs of review, to wit: Item 22, Petition of Southern Pacific Company and Southern Pacific Railroad Company for a writ of review, filed in the Supreme Court of the State of California on the 19th day of June, 1928 (omitting exhibits); Item 23, Petition of Atchison, Topeka & Santa Fe Railway Company for a writ of review, filed in the Supreme Court of the State of California on the 19th day of June, 1928, (omitting exhibits); Item 24, Petition of Los Angeles and [fol. 474] Salt Lake Railroad Company for a writ of review, filed in the Supreme Court of the State of California on the 19th day of June, 1928, (omitting exhibits), and, therefore, said applications which are on file in my office, are set out in full in this certified record.

I further certify that said transcript comprises all the several proceedings, files, writs, opinions, orders and decrees and other papers designated by counsel for the respective parties in their Joint Præcipe for Transcript of Record and Stipulation as being necessary for a hearing and determining of said causes by the Honorable, The Supreme Court of the United States.

Witness my hand officially and the seal of said Court at San Francisco the 16th day of September, A. D. 1930.

B. Grant Taylor, Clerk, by Isadore Erb, Deputy Clerk. (Seal Supreme Court of California.)

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[fol. 475] IN SUPREME COURT OF THE UNITED STATES

STATEMENT OF POINTS UPON WHICH APPELLANTS INTEND TO RELY AND STIPULATION AS TO PRINTING—Filed Oct. 1, 1930

Come now appellants and adopt their several Assignments of Errors as their Statements of the Points to be Relied upon in these Cases.

Appellants represent that it is necessary for the con- [fols. 476 & 477] sideration of these causes that all of the

record filed in this Court be printed, except those portions thereof stipulated to be omitted in the Stipulation Covering Printing of Record between the parties, filed concurrently herewith, provided the Clerk in printing the transcript of record insert in lieu of the matters omitted the explanatory notes appearing in said stipulation; otherwise, all of the record should be printed.

Dated September 26, 1930.

Robert Brennan, E. W. Camp, A. S. Halsted, Frank Karr, C. W. Durbrow, Attorneys for Appellants.

Due service and receipt of a copy of the within Statement of Points Upon Which Appellants Intend to Rely and Designation As To Printing is hereby admitted this 26th day of September, 1930.

Arthur T. George, Ira H. Rowell, Roderick B. Cassidy, Attorneys for Appellees.

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[fol. 478] STIPULATION COVERING PRINTING OF RECORD

It is hereby stipulated by and between the parties to the above entitled causes that the whole of the record on appeal [fol. 479] in said causes shall be printed, except the following portions thereof:

1. (a) Præcipe Item 17—Application of the Southern Pacific Company for Rehearing on Decision 18593 filed with the Railroad Commission July 16, 1927, S. F. No. 13058.

(b) Præcipe Item 18—Application of Los Angeles & Salt Lake Railroad Company for Rehearing on Decision 18593 filed with the Railroad Commission July 16, 1927, S. F. No. 13057.

(c) Præcipe Item 19—Application of the Atchison, Topeka & Santa Fe Railway Company for Rehearing on Decision 18593 filed with the Railroad Commission July 21, 1927, S. F. No. 13056.

Print in lieu thereof the following statement:

"Applications for Rehearing to California Railroad Commission of Decision 18593—The three applications for re-

hearing mentioned in Præcipe Items 17, 18 and 19 are set out and quoted in full in the respective petitions for writs of review filed by each of said appellants in the Supreme Court of the State of California on the 19th day of June 1928, S. F. 13056, S. F. No. 13057, and S. F. No. 13058 and printed in full therein in the certified record".

2. (a) Præcipe Item 23—Petition of Atchison, Topeka & Santa Fe Railway Company for a Writ of Review, filed in the Supreme Court of the State of California on the 19th day of June, 1928.

(b) Præcipe Item 24—Petition of Los Angeles & Salt Lake Railroad Company for a writ of Review, filed in the Supreme Court of the State of California on the 19th day of June, 1928.

Insert the following note in lieu thereof:

"Petitions of Atchison, Topeka & Santa Fe Railway Company for Writ of Review, S. F. No. 13056, and of Los An- [fol. 480] geles & Salt Lake Railroad Company for Writ of Review, S. F. No. 13057, omitted in printing because they are substantially the same as Petition of Southern Pacific Company et al for Writ of Review, S. F. No. 13058."

3. (a) Præcipe Item 26—Writ of Review issued out of the Supreme Court of the State of California upon petition of Atchison, Topeka & Santa Fe Railway Company dated July 7, 1928, showing service on Carl I. Wheat July 7, 1928.

(b) Præcipe Item 27—Writ of Review issued out of the Supreme Court of the State of California upon petition of Los Angeles & Salt Lake Railroad Company dated July 7, 1928, showing service on Carl I. Wheat July 7, 1928.

In lieu thereof print this statement:

"Writs of Review, S. F. No. 13056 and S. F. No. 13057, are substantially identical as to form and substance as the Writ of Review issued out of the Supreme Court of the State of California upon the petition of Southern Pacific Company et al. dated July 7, 1928, S. F. No. 13058; omitted in printing."

4. (a) Præcipe Item 34—Remittitur issued out of the Supreme Court of the State of California dated June 27, 1930, in Los Angeles & Salt Lake Railroad Company v. Railroad Commission of the State of California, S. F. No. 13057.

(b) Præcipe Item 35—Remitittur issued out of the Supreme Court of the State of California dated June 27, 1930, in Southern Pacific Company et al. v. Railroad Commission of the State of California, S. F. No. 13058.

In lieu thereof print the following note:

"Remittiturs, S. F. No. 13057 and S. F. No. 13058; omitted in printing because they are substantially the same as in S. F. No. 13056."

[fol. 481] 5. (a) Præcipe Item 37—Petition for Appeal by Los Angeles & Salt Lake Railroad Company S. F. No. 13057.

(b) Præcipe Item 38—Petition for Appeal by Southern Pacific Company et al., S. F. No. 13058.

Insert the following note in lieu thereof:

"Petitions for appeal, S. F. No. 13057 and S. F. No. 13058; omitted in printing because they are substantially the same as in S. F. No. 13056."

6. (a) Præcipe Item 40—Assignment of Errors of Los Angeles & Salt Lake Railroad Company in S. F. No. 13057, and

(b) Præcipe Item 41—Assignment of Errors of Southern Pacific Company et al. in S. F. No. 13058.

Except that paragraph XX of the Assignment of Errors of Los Angeles & Salt Lake Railroad Company in S. F. No. 13057, and paragraph XX of the Assignment of Errors of Southern Pacific Company et al. in S. F. No. 13058, shall be printed, which said paragraphs XX read as follows:

S. F. No. 13057, paragraph XX;—

"The Court erred in holding that the order of the Commission requiring petitioner to abandon the use of its existing passenger station and station grounds in the City of Los Angeles, California, and join other carriers in constructing, maintaining and operating a union passenger sta-

tion at the Plaza Site in the said City, for the purpose of removing the trains of the Southern Pacific Company from Alameda Street in the said City, with which removal it has no concern, is not a taking of petitioner's property without due process of law and a denying to your petitioner the equal protection of the law within the meaning of the Fourteenth Amendment to the Constitution of the United States."

S. F. No. 13058, paragraph XX:

[fol. 482] "The Court erred in making and entering its judgment affirming the order of the Railroad Commission of the State of California requiring petitioners to abandon an adequate passenger station and facilities and join with other carriers in acquiring new property upon which to construct a union passenger station for the purpose of eliminating certain grade crossings in said City of Los Angeles and for the purpose of providing other carriers with adequate passenger terminal depots, in that said order deprives petitioners of their property without due process of law and takes their property for public use without compensation and is, therefore, in contravention of and repugnant to the Fourteenth Amendment to the Constitution of the United States."

In lieu of the ommissions in printing, insert the following:

"Assignment of Errors of Los Angeles & Salt Lake Railroad Company in S. F. No. 13057 omitted in printing, except paragraph XX, for the reason that the same is substantially identical with the Assignment of Errors of Atchison, Topeka & Santa Fe Railway Company in S. F. No. 13056.

Assignment of Errors of Southern Pacific Company et al., in S. F. No. 13058 omitted in printing, except paragraph No. XX thereof, for the reason that the same are substantially identical with the Assignment of Errors of Atchison, Topeka & Santa Fe Railway Company in S. F. No. 13056.

7. (a) Præcipe Item 43—Order allowing appeal by Los Angeles & Salt Lake Railroad Company, S. F. No. 13057.

(b) Præcipe Item 44—Order allowing appeal by Southern Pacific Company et al., S. F. No. 13058.

Insert the following note in lieu thereof:

"Orders allowing appeal, S. F. No. 13057 and S. F. No. 13058; omitted in printing because each is substantially [fol. 483] the same as in S. F. No. 13056."

8. (a) Præcipe Item 46—Citation, with proof of service and all endorsements thereon, by Los Angeles & Salt Lake Railroad Company, S. F. No. 13057.

(b) Præcipe Item 47—Citation, with proof of service and all endorsements thereon, by Southern Pacific Company et al., S. F. No. 13058.

Insert the following note in lieu thereof:

"Citations, S. F. No. 13057 and S. F. No. 13058; omitted in printing because each is substantially the same as in S. F. No. 13056."

9. (a) Præcipe Item 48—Supersedeas Bond on Appeal, by Atchison, Topeka & Santa Fe Railway Company, S. F. No. 13056.

(b) Præcipe Item 49—Supersedeas Bond on Appeal, by Los Angeles & Salt Lake Railroad Company, S. F. No. 13057.

(c) Præcipe Item 50—Supersedeas Bond on Appeal, by Southern Pacific Company et al., S. F. No. 13058.

Insert the following note in lieu thereof:

"Supersedeas Bonds on Appeal, S. F. No. 13056, S. F. No. 13057 and S. F. No. 13058, each for $500, each approved and filed on June 26, 1930, omitted in printing."

10. Præcipe Item 52—Stipulation and Order of August 18, 1930, extending time to docket cause and file record on appeal.

Insert the following note in lieu thereof:

"Stipulation and Order dated August 18, 1930, in S. F. No. 13056, S. F. No. 13057 and S. F. No. 13058, enlarging and extending time to docket causes and to file record on appeal; omitted in printing."

[fols. 484 & 485] 11. It is further stipulated that the original exhibits, to-wit: California Railroad Commission Ex-

hibits Nos. 1, 49, City of Los Angeles Exhibits Nos. 5, 13, 14, 15, 16, and Carriers' Exhibits Nos. 36, 80 and 88, described in Item 54 of the Præcipe, and certified by the Clerk of the Supreme Court of the State of California separately and forwarded to the Clerk of the United States Supreme Court, shall be omitted in printing, but may be referred to by the various parties to the appeal and their counsel, and by the court, with the same force and effect as if contained in the printed record.

12. It is further stipulated that all titles and verifications may be omitted in printing except as follows:

The titles on Items 1, 2, 10, 16, 20 and 30 of the Præcipe shall be printed.

Dated September 26th, 1930.

Robert Brennan, E. W. Camp, A. S. Halsted, Frank Karr, C. W. Durbrow, Attorneys for Appellants. Arthur T. George, Ira H. Rowell, Roderick B. Cassidy, Attorneys for Appellees.

[fol. 486] [File endorsement omitted.]

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Endorsed on cover: File No. 35,382, 35,393, 35,394. California Supreme Court. Term No. 470. The Atchison, Topeka and Santa Fe Railway Company, appellant, vs. Railroad Commission of the State of California and Leon O. Whitsell, C. L. Seavey, et al., etc. Term No. 471. Los Angeles & Salt Lake Railroad Company, appellant, vs. Railroad Commission of the State of California and Leon O. Whitsell, C. L. Seavey, et al., etc. Term No. 472. Southern Pacific Company and Southern Pacific Railroad Company, appellants, vs. Railroad Commission of the State of California and Leon O. Whitsell, C. L. Seavey, et al., etc. Filed September 22, 1930. File Nos. 35,392, 35,393, 35,394.